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ABSTRACT

The American Association of University Professors is regarded as the authoritative voice of the academic profession. This document presents a wide range of policies as they have been determined by the Association through the years. The policies described concern academic freedom, tenure, and due process including procedural standards in faculty dismissal proceedings, renewal or nonrenewal of appointments, discrimination, tenure quotas, and mandatory retirement; college and university government including the role of faculty in budgetary and salary matters, faculty participation in the selection and retention of administrators, faculty status of librarians, and student participation in governance; collective bargaining; professional ethics; student rights and freedoms; college and university accreditation; research and teaching, including faculty workload, and conflicts of interest; and collateral benefits, including insurance and retirement benefits and leave policies. The constitution of the Association is also included. (JMF)

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EDUCATION

Policy Documents and Reports

The American Association of University Professors
Suite 500
One Dupont Circle
Washington, D.C. 20036
(202-466-8050)

Western Regional Office
Suite 1406 — 582 Market Street
San Francisco, California 94104
(415-989-5430)

Northeastern Regional Office
Suite 2107 — 155 East 44th Street
New York, New York 10017
(212-986-9096)

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Introduction

For more than sixty years, the American Association of University Professors has worked for the acceptance by the academic community of the Association's standards for responsible practice. Today the Association is regarded as the authoritative voice of the academic profession.

This volume presents in convenient format the wide range of policies as they have been determined by the Association's national Council and by the Annual Meeting of the membership, working with the assistance of standing and special committees and at times in cooperation with other organizations.

A significant source of additional information for persons interested in Association policies and procedures is the Handbook, *Academic Freedom and Tenure*, published by the University of Wisconsin Press (rev. ed., 1969). Other publications, available for purchase through the Washington Office of the Association, include *Faculty Tenure: A Report and Recommendations by the Commission on Tenure in Higher Education* (1973), *A Primer on Collective Bargaining for College and University Faculty* (1975), *The Recognition and Evaluation of Teaching* (1979), and *Career Development for the College Teacher* (1971).

The names of the Association's officers, Council, and staff are printed on the reverse of the title page of each issue of the *AAUP Bulletin*. Association committees and their membership are listed in each year's issue number four. An examination of the AAUP Constitution (reprinted in this volume), together with the Council, staff, and committee rosters noted above, provides a convenient outline of the Association's structure.

Active membership in the AAUP is open to teachers and research scholars holding faculty status in accredited institutions, or in institutions which are candidates for accreditation. Librarians and department chairmen are eligible even though they do not teach. Counselors and staff members of university presses holding faculty status are eligible, as are professional appointees included with the faculty in a collective bargaining unit.

Graduate Student membership is open to persons who are presently, or within the past five years have been, enrolled in graduate studies in accredited institutions, and who are not eligible for Active membership.

Associate membership is reserved for Active or Graduate Student members who become administrative officers with less than half-time teaching or research. *Emeritus* membership is open to members retired for reasons of age from teaching or research positions. *Public* membership is open to all persons not eligible for Active, Graduate Student, Associate, or Emeritus membership.

Inquiries concerning membership or the policies supported by AAUP for the community of higher education should be addressed to the Washington or Regional Offices of the Association. Members and nonmembers alike are also referred to local chapter and state conference leaders for advice and counsel on matters of concern.

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Academic Freedom and Tenure

1940 Statement of Principles and Interpretive Comments

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

The 1940 Statement is printed below, followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges during 1969.

The following organizations officially endorsed the 1940 Statement in the years indicated.

Association of American Colleges....1941
American Association of University Professors....1941
American Library Association (adapted for librarians)....1946
Association of American Law Schools....1946
American Political Science Association....1947
American Association of Colleges for Teacher Education....1950
American Association for Higher Education....1950
Eastern Psychological Association....1950
Southern Society for Philosophy and Psychology....1953
American Psychological Association....1961
American Historical Association....1961
Modern Language Association of America....1961
American Economic Association....1962
American Farm Economic Association....1962
Midwest Sociological Society....1963
Organization of American Historians....1963
American Philological Association....1963
American Council of Learned Societies....1963
Speech Association of America....1963
American Sociological Association....1963
Southern Historical Association....1963
American Studies Association....1963
Association of American Geographers....1963
Southern Economic Association....1963
Classical Association of the Middle West and South....1964
Southwestern Social Science Association....1964
Archaeological Institute of America....1964
Southern Management Association....1964
American Educational Theatre Association....1964
South Central Modern Language Association....1964
Southwestern Philosophical Society....1964
Council for the Advancement of Small Colleges....1965
Mathematical Association of America....1965
Arizona Academy of Science....1965
American Risk and Insurance Association....1965
Academy of Management....1965
American Catholic Historical Association....1966
American Catholic Philosophical Association....1966
Association for Education in Journalism....1966
Western History Association....1966
Mountain-Plains Philosophical Conference....1966
Society of American Archivists....1966
Southeastern Psychological Association....1966
Southern Speech Association....1966
American Association for the Advancement of Slavic Studies....1967
American Mathematical Society....1967
College Theology Society....1967
Council on Social Work Education....1967
American Association of Colleges of Pharmacy....1967
American Academy of Religion....1967
American Catholic Sociological Society....1967
American Society of Journalism School Administrators....1967
John Dewey Society for the Study of Education and Culture....1967
South Atlantic Modern Language Association....1967
American Finance Association....1967
Catholic Economic Association....1967
United Chapters of Phi Beta Kappa....1968
American Society of Christian Ethics....1968
American Association of Teachers of French....1968
Appalachian Finance Association....1968
Association of Teachers of Chinese Language and Culture....1968
American Society of Plant Physiologists....1968
University Film Association....1968
American Dialect Society....1968
American Speech and Hearing Association....1968
Association of Social and Behavioral Scientists....1968
College English Association....1968
National College Physical Education Association for Men....1969
American Real Estate and Urban Economics Association....1969
History of Education Society....1969
Council for Philosophical Studies....1969
American Physicists Association....1969
American Musicological Society....1969
American Association of Teachers of Spanish and Portuguese....1969
Texas Junior College Teachers Association....1970
College Art Association of America....1970
Society of Professors of Education....1970
American Anthropological Association....1970
Association of Theological Schools....1970
American Association of Schools and Departments of Journalism....1971
American Business Law Association....1971
American Council for the Arts in Education....1972
New York State Mathematics Association of Two-Year Colleges....1972
College Language Association....1973
Pennsylvania Historical Association....1973
Massachusetts Regional Community College Faculty Association....1973
American Philosophical Association[1]....1974
American Classical League....1974
American Comparative Literature Association....1974
Rocky Mountain Modern Language Association....1974
Society of Architectural Historians....1975
American Statistical Association....1975
American Folklore Society....1975

[1] Endorsed by Association's Western Division in 1952, Eastern Division in 1953, and Pacific Division in 1962.

Association of Asian Studies 1975
Linguistic Society of America 1975
African Studies Association 1975
American Institute of Biological Sciences 1975
Conference on British Studies 1975
Texas Association of College Teachers 1976
Society for Spanish and Portuguese Historical Studies 1976

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher[2] or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights. [1][3]

Tenure is a means to certain ends; specifically: (1) Freedom of teaching and research and of extramural activities and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

Academic Freedom

(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject. [2] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment. [3]

(c) The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman. [4]

[2] The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

[3] Bold-face numbers in brackets refer to Interpretive Comments which follow.

Academic Tenure

(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, [5] the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. [6] Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period. [7]

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have. [8]

(4) Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an adviser of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution. [9]

(5) Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

1940 Interpretations

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7-8, 1940, the following interpretations of the 1940 *Statement of Princi-*

ples on Academic Freedom and Tenure were agreed upon:

1. That its operation should not be retroactive.
2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure.
3. If the administration of a college or university feels that a teacher has not observed the admonitions of Paragraph (c) of the section on *Academic Freedom* and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning his fitness for his position, it may proceed to file charges under Paragraph (a) (4) of the section on *Academic Tenure*. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

1970 Interpretive Comments

Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure *with leading educational associations and with individual faculty members and administrators, a Joint Committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the Joint Committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.*

The Committee submitted to the two Associations for their consideration the following "Interpretive Comments." These interpretations were approved by the Council of the American Association of University Professors in April, 1970, and endorsed by the Fifty-sixth Annual Meeting as Association policy.

In the thirty years since their promulgation, the principles of the 1940 *Statement of Principles on Academic Freedom and Tenure* have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that Association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 Statement, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 Statement is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 Statement; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishian v. Board of Regents* 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 Statement on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both Associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to the professor in his utterances as a citizen, in the exercise of his responsibilities to the institution and students, and in his conduct when resigning from his institution or when undertaking government-sponsored research. Of particular relevance is the *Statement on Professional Ethics*, adopted by the Fifty-second Annual Meeting of the AAUP as Association policy and published in the *AAUP Bulletin* (Autumn, 1966, pp. 290-291).

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for the teacher to avoid persistently intruding material which has no relation to his subject.

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure.

4. This paragraph is the subject of an Interpretation adopted by the sponsors of the 1940 Statement immediately following its endorsement which reads as follows:

> If the administration of a college or university feels that a teacher has not observed the admonitions of Paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning his fitness for his position, it may proceed to file charges under Paragraph (a) (4) of the section on Academic Tenure. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the 1940 Statement should also be

interpreted in keeping with the 1964 *"Committee A Statement on Extramural Utterances" (AAUP Bulletin,* Spring, 1965, p. 29) which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his position. Extramural utterances rarely bear upon the faculty member's fitness for his position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph V of the *Statement on Professional Ethics* also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

> As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person he avoids creating the impression that he speaks or acts for his college or university. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary as well as to the tenured teacher, but also to all others, such as part-time and teaching assistants, who exercise teaching responsibilities.

5. The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of his specific title.*

6. In calling for an agreement "in writing" on the amount of credit for a faculty member's prior service at other institutions, the Statement furthers the general policy of full understanding by the professor of the terms and conditions of his appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution.

7. The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 Statement with respect to the termination of services of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.

The general principle of notice contained in this paragraph is developed with greater specificity in the *Standards for Notice of Nonreappointment,* endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964). These standards are:

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

(1) *Not later than March 1 of the first academic year of service,* if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

(2) *Not later than December 15 of the second academic year of service,* if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

(3) At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and individuals, are described in the *Statement on Recruitment and Resignation of Faculty Members,* as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

8. The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during his probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the *Recommended Institutional Regulations on Academic Freedom and Tenure,* prepared by the American Association of University Professors.

9. A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the *Statement on Procedural Standards in Faculty Dismissal Proceedings,* jointly approved by the American Association of University Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 Statement is silent.

The 1958 Statement provides: "Suspension of the faculty member during the proceedings involving him is justified only if immediate harm to himself or others is threatened by his continuance. Unless legal considerations forbid, any such suspension should be with pay." A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

*For a discussion of this question, see the "Report of the Special Committee on Academic Personnel Ineligible for Tenure," *AAUP Bulletin,* Autumn, 1966, pp. 280-282.

Statement on Procedural Standards in Faculty Dismissal Proceedings

The following Statement on Procedural Standards in Faculty Dismissal Proceedings *was prepared by a joint committee representing the Association of American Colleges and the American Association of University Professors and was approved by these two associations at their annual meetings in 1958. It supplements the 1940* Statement of Principles on Academic Freedom and Tenure *by providing a formulation of the "academic due process" that should be observed in dismissal proceedings. The exact procedural standards here set forth, however, "are not intended to establish a norm in the same manner as the 1940* Statement of Principles on Academic Freedom and Tenure, *but are presented rather as a guide. . . ."*

Introductory Comments

Any approach toward settling the difficulties which have beset dismissal proceedings on many American campuses must look beyond procedure into setting and cause. A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely if ever need occur.

Just as the board of control or other governing body is the legal and fiscal corporation of the college, the faculty are the academic entity. Historically, the academic corporation is the older. Faculties were formed in the Middle Ages, with managerial affairs either self-arranged or handled in course by the parent church. Modern college faculties, on the other hand, are part of a complex and extensive structure requiring legal incorporation, with stewards and managers specifically appointed to discharge certain functions.

Nonetheless, the faculty of a modern college constitute an entity as real as that of the faculties of medieval times, in terms of collective purpose and function. A necessary pre-condition of a strong faculty is that it have first-hand concern with its own membership. This is properly reflected both in appointments to and in separations from the faculty body.

A well-organized institution will reflect sympathetic understanding by trustees and teachers alike of their respective and complementary roles. These should be spelled out carefully in writing and made available to all. Trustees and faculty should understand and agree on their several functions in determining who shall join and who shall remain on the faculty. One of the prime duties of the administrator is to help preserve understanding of those functions. It seems clear on the American college scene that a close positive relationship exists between the excellence of colleges, the strength of their faculties, and the extent of faculty responsibility in determining faculty membership. Such a condition is in no wise inconsistent with full faculty awareness of institutional factors with which governing boards must be primarily concerned.

In the effective college, a dismissal proceeding involving a faculty member on tenure, or one occurring during the term of an appointment, will be a rare exception, caused by individual human weakness and not by an unhealthful setting. When it does come, however, the college should be prepared for it, so that both institutional integrity and individual human rights may be preserved during the process of resolving the trouble. The faculty must be willing to recommend the dismissal of a colleague when necessary. By the same token, presidents and governing boards must be willing to give full weight to a faculty judgment favorable to a colleague.

One persistent source of difficulty is the definition of adequate cause for the dismissal of a faculty member. Despite the 1940 *Statement of Principles on Academic Freedom and Tenure* and subsequent attempts to build upon it, considerable ambiguity and misunderstanding persist throughout higher education, especially in the respective conceptions of governing boards, administrative officers, and faculties concerning this matter. The present statement assumes that individual institutions will have formulated their own definitions of adequate cause for dismissal, bearing in mind the 1940 Statement and standards which have developed in the experience of academic institutions.

This statement deals with procedural standards. Those recommended are not intended to establish a norm in the same manner as the 1940 *Statement of Principles on Aca-*

demic Freedom and Tenure, but are presented rather as a guide to be used according to the nature and traditions of particular institutions in giving effect to both faculty tenure rights and the obligations of faculty members in the academic community.

Procedural Recommendations

1. Preliminary Proceedings Concerning the Fitness of a Faculty Member

When reason arises to question the fitness of a college or university faculty member who has tenure or whose term appointment has not expired, the appropriate administrative officers should ordinarily discuss the matter with him in personal conference. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, a standing or *ad hoc* committee elected by the faculty and charged with the function of rendering confidential advice in such situations should informally inquire into the situation to effect an adjustment if possible and, if none is effected, to determine whether in its view formal proceedings to consider his dismissal should be instituted. If the committee recommends that such proceedings should be begun, or if the president of the institution, even after considering a recommendation of the committee favorable to the faculty member, expresses his conviction that a proceeding should be undertaken, action should be commenced under the procedures which follow. Except where there is disagreement, a statement with reasonable particularity of the grounds proposed for the dismissal should then be jointly formulated by the president and the faculty committee; if there is disagreement, the president or his representative should formulate the statement.

2. Commencement of Formal Proceedings

The formal proceedings should be commenced by a communication addressed to the faculty member by the president of the institution, informing the faculty member of the statement formulated, and informing him that, if he so requests, a hearing to determine whether he should be removed from his faculty position on the grounds stated will be conducted by a faculty committee at a specified time and place. In setting the date of the hearing, sufficient time should be allowed the faculty member to prepare his defense. The faculty member should be informed, in detail or by reference to published regulations, of the procedural rights that will be accorded to him. The faculty member should state in reply whether he wishes a hearing and, if so, should answer in writing, not less than one week before the date set for the hearing, the statements in the president's letter.

3. Suspension of the Faculty Member

Suspension of the faculty member during the proceedings involving him is justified only if immediate harm to himself or others is threatened by his continuance. Unless legal considerations forbid, any such suspension should be with pay.

4. Hearing Committee

The committee of faculty members to conduct the hearing and reach a decision should either be an elected standing committee not previously concerned with the case or a committee established as soon as possible after the president's letter to the faculty member has been sent. The choice of members of the hearing committee should be on the basis of their objectivity and competence and of the regard in which they are held in the academic community. The committee should elect its own chairman.

5 Committee Proceeding

The committee should proceed by considering the statement of grounds for dismissal already formulated and the faculty member's response written before the time of the hearing. If the faculty member has not requested a hearing, the committee should consider the case on the basis of the obtainable information and decide whether he should be removed; otherwise the hearing should go forward. The committee, in consultation with the president and the faculty member, should exercise its judgment as to whether the hearing should be public or private. If any facts are in dispute, the testimony of witnesses and other evidence concerning the matter set forth in the president's letter to the faculty member should be received.

The president should have the option of attendance during the hearing. He may designate an appropriate representative to assist in developing the case; but the committee should determine the order of proof, should normally conduct the questioning of witnesses, and, if necessary, should secure the presentation of evidence important to the case.

The faculty member should have the option of assistance by counsel, whose functions should be similar to those of the representative chosen by the president. The faculty member should have the additional procedural rights set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure* and should have the aid of the committee, when needed, in securing the attendance of witnesses. The faculty member or his counsel and the representative designated by the president should have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member should have the opportunity to be confronted by all witnesses adverse to him. Where unusual and urgent reasons move the hearing committee to withhold this right, or where the witness cannot appear, the identity of the witness, as well as his statements, should nevertheless be disclosed to the faculty member. Subject to these safeguards, statements may when necessary be taken outside the hearing and reported to it. All of the evidence should be duly recorded. Unless special circumstances warrant, it should not be necessary to follow formal rules of court procedure.

6. Consideration by Hearing Committee

The committee should reach its decision in conference, on the basis of the hearing. Before doing so, it should give opportunity to the faculty member or his counsel and the representative designated by the president to argue orally before it. If written briefs would be helpful, the commit-

tee may request them. The committee may proceed to decision promptly, without having the record of the hearing transcribed, where it feels that a just decision can be reached by this means; or it may await the availability of a transcript of the hearing if its decision would be aided thereby. It should make explicit findings with respect to each of the grounds of removal presented, and a reasoned opinion may be desirable. Publicity concerning the committee's decision may properly be withheld until consideration has been given to the case by the governing body of the institution. The president and the faculty member should be notified of the decision in writing and should be given a copy of the record of the hearing. Any release to the public should be made through the president's office.

7. Consideration by Governing Body

The president should transmit to the governing body the full report of the hearing committee, stating its action. On the assumption that the governing board has accepted the principle of the faculty hearing committee, acceptance of the committee's decision would normally be expected. If the governing body chooses to review the case, its review should be based on the record of the previous hearing, accompanied by opportunity for argument, oral or written or both, by the principals at the hearing or their representatives. The decision of the hearing committee should either be sustained or the proceeding be returned to the committee with objections specified. In such a case the committee should reconsider, taking account of the stated objections and receiving new evidence if necessary. It should frame its decision and communicate it in the same manner as before. Only after study of the committee's reconsideration should the governing body make a final decision overruling the committee.

8. Publicity

Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements about the case by either the faculty member or administrative officers should be avoided so far as possible until the proceedings have been completed. Announcement of the final decision should include a statement of the hearing committee's original action, if this has not previously been made known.

Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments

The Statement which follows was prepa ed by the Association's Committee A on Academic Freedom and Tenure. It was first published in somewhat different format as a draft report in the March, 1970, AAUP Bulletin, *with comments solicited from members, chapters, and conferences. It was adopted by the Council of the American Association of University Professors in April, 1971, and endorsed by the Fifty-seventh Annual Meeting as Association policy.*

Introduction

The steady growth in the number of institutions new to college and university traditions, and in the number of probationary faculty members, has underscored the need for adequate procedures in reaching decisions on faculty renewals and for the protection of the probationary faculty member against decisions either in violation of his academic freedom or otherwise improper. Related to this need has been a heightened interest in providing the faculty member with a written statement of reasons for a decision not to offer him reappointment or to grant him tenure. At the Association's Fifty-fifth Annual Meeting, held on April 30 and May 1, 1969, a motion was adopted urging Committee A

> . . . to consider adoption of the position that notice of nonreappointment of probationary faculty be given in writing and that it include the reasons for the termination of the appointment. In any allegation that the reasons are false, or unsupported by the facts, or violative of academic freedom or proced·ires, the proof should rest with the faculty member.

The position which the Annual Meeting urged Committee A to consider had been the primary topic of discussion at the December 14-15, 1968, meeting of the Committee A Subcommittee on Nontenured Faculty, and it was discussed at length again at the subcommittee's meeting on October 11, 1969, at the regular Committee A meetings of April 27-28 and October 29-30, and at a special meeting of Committee A on January 9-10, 1970. The present statement embodies the consensus arrived at during those meetings.

[1] These procedures do not apply to special appointments, clearly designated in writing at the outset as involving only a brief association with the institution for a fixed period of time.

It has long been the Association's position, as stated in *The Standards for Notice of Nonreappointment,* that "notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing." Although the Association has not attempted to discourage the giving of reasons, either orally or in writing, for a notice of nonreappointment, it has not required that reasons be given.

In considering this question, Committee A endeavored to appraise the advantages and disadvantages of the Association's present policy and the proposed policy in terms of the Association's traditional concern for the welfare of higher education and its various components, including probationary faculty members. The committee also examined the question of giving reasons in the context of the entire probationary period. As a result, this statement goes beyond the question of giving reasons to the more fundamental subject of general fairness in the procedures related to renewal or nonrenewal of term appointments and the granting of tenure.

Statement

The Probationary Period: Standards and Criteria

The 1940 *Statement of Principles on Academic Freedom and Tenure* prescribes that "during the probationary period a teacher should have the academic freedom that all other members of the faculty have." A number of the nontenured faculty member's rights provide support for his academic freedom. He cannot, for example, be dismissed before the end of a term appointment except for adequate cause which has been demonstrated through academic due process—a right he shares with tenured

members of the faculty. If he asserts that he has been given notice of nonreappointment in violation of academic freedom, he is entitled to an opportunity to establish his claim in accordance with Regulation 10 of Committee A's *Recommended Institutional Regulations.* He is entitled to timely notice of nonreappointment in accordance with the schedule prescribed in the statement on *The Standards for Notice of Nonreappointment.*[2]

Lacking the reinforcement of tenure, however, the academic freedom of the probationary faculty member has depended primarily upon the understanding and support of his faculty colleagues, the administration, and professional organizations, especially the Association. In the 1966 *Statement on Government of Colleges and Universities,* the Association and other sponsoring organizations have asserted that "faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal." It is Committee A's view that collegial deliberation of the kind envisioned by the *Statement on Government* will minimize the risk both of a violation of academic freedom and of a decision which is arbitrary or based upon inadequate consideration.

Frequently the young faculty member has had no training or experience in teaching, and his first major research endeavor may still be uncompleted at the time he starts his career as a college teacher. Under these circumstances, it is particularly important that there be a probationary period—a maximum of seven years under the 1940 *Statement of Principles on Academic Freedom and Tenure*—before tenure is granted. Such a period gives the individual time to prove himself, and his colleagues time to observe and evaluate him on the basis of his performance in the position rather than on the basis only of his education, training, and recommendations.

Good practice requires that the institution (department, college, or university) define its criteria for reappointment and tenure and its procedures for reaching decisions on these matters. The 1940 *Statement of Principles* prescribes that "the precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated." Committee A also believes that fairness to the faculty member prescribes that he be informed, early in his appointment, of the substantive and procedural standards which will be followed in determining whether or not his appointment will be renewed or tenure will be granted.

We accordingly make the following recommendation:

1. *Criteria and Notice of Standards.* The faculty member should be advised, early in his appointment, of the substantive and procedural standards generally employed in decisions affecting renewal and tenure. Any special standards adopted by his department or school should also be brought to his attention.

The Probationary Period: Evaluation and Decision

The relationship of the senior and junior faculty should be one of colleagueship, even though the nontenured faculty member knows that in time he will be judged by his senior colleagues. Thus the procedures adopted for evaluation and possible notification of nonrenewal should not endanger this relationship where it exists, and should encourage it where it does not. The nontenured faculty member should have available to him the advice and assistance of his senior colleagues; and the ability of senior colleagues to make a sound decision on renewal or tenure will be enhanced if an opportunity is provided for a regular review of the qualifications of nontenured faculty members. Total separation of the faculty roles in counseling and evaluation may not be possible and may at times be unproductive: for example, an evaluation, whether interim or at the time of final determination of renewal or tenure, can be presented in such a manner as to assist the nontenured faculty member as he strives to improve his performance.

Any recommendation regarding renewal or tenure should be reached by an appropriate faculty group in accordance with procedures approved by the faculty. Because it is important both to the faculty member and the decision-making body that all significant information be considered, he should be notified that a decision is to be made regarding renewal of his appointment or the granting of tenure and should be afforded an opportunity to submit material in writing which he believes to be relevant to that decision.

We accordingly make the following recommendations:

2. (a) *Periodic Review.* There should be provision for periodic review of the faculty member's situation during the probationary service.

2. (b) *Opportunity To Submit Material.* The faculty member should be advised of the time when decisions affecting renewal and tenure are ordinarily made, and he should be given the opportunity to submit material which he believes will be helpful to an adequate consideration of his circumstances.

Observance of the practices and procedures outlined above should minimize the likelihood of reasonable complaint if the nontenured faculty member is given notice of nonreappointment. He will have been informed of the criteria and procedures for renewal and tenure; he will have been counseled by faculty colleagues; he will have been given an opportunity to have all material relevant to his evaluation considered; and he will have

[2] The *Standards for Notice* are as follows:

(1) *Not later than March 1 of the first academic year of service,* if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

(2) *Not later than December 15 of the second academic year of service,* if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

(3) At least twelve months before the expiration of an appointment after two or more years in the institution.

received a timely decision representing the view of faculty colleagues.

Notice of Reasons

With respect to giving reasons for a notice of nonreappointment, practice varies widely from institution to institution, and sometimes within institutions. At some, in accordance with the institution's regulations, the faculty member is provided with a written statement of the reasons. At others, generally at the discretion of the department chairman, he is notified of the reasons, either orally or in writing, if he requests such notification. At still others, no statement of reasons is provided even upon request, although information is frequently provided informally by faculty colleagues.

Resolving the question of whether a faculty member should be given a statement of reasons, at least if he requests it, requires an examination of the needs both of the institution and of the individual faculty member.

A major responsibility of the institution is to recruit and retain the best qualified faculty within its means. In a matter of such fundamental importance, the institution, through the appropriate faculty agencies, must be accorded the widest latitude consistent with academic freedom and the standards of fairness. Committee A recognizes that the requirement of giving reasons may lead, however erroneously, to an expectation that the decision-making body must justify its decision. A notice of nonreappointment may thus become confused with dismissal for cause, and under these circumstances the decision-making body may become reluctant to reach adverse decisions which may culminate in grievance procedures. As a result there is a risk that the important distinction between tenure and probation will be eroded.

To be weighed against these important institutional concerns are the interests of the individual faculty member. He may be honestly unaware of the reasons for a negative decision, and the decision may be based on a judgment of shortcomings which he could easily remedy if informed of them. A decision not to renew an appointment may be based on erroneous information which the faculty member could readily correct if he were informed of the basis for the decision. Again, the decision may be based on considerations of institutional policy or program development which have nothing to do with the faculty member's competence in his field, and if not informed of the reasons he may mistakenly assume that a judgment of inadequate performance on his part has been made. In the face of a persistent refusal to supply the reasons, a faculty member may be more inclined to attribute improper motivations to the decision-making body or to conclude that its evaluation has been based upon inadequate consideration. If he wishes to request a reconsideration of the decision, or a review by another body, his ignorance of the reasons for the decision will create difficulties both in reaching a decision whether to initiate such a request and in presenting his case for reconsideration or review.

After careful evaluation of these competing concerns, Committee A has concluded that the reasons in support of the faculty member's being informed outweigh the countervailing risks. Committee A emphasizes that in reaching this conclusion it does not consider it appropriate to require that every notice of nonreappointment be accompanied by a written statement of the reasons for nonreappointment. It may not always be to the advantage of the faculty member to be informed of the reasons, particularly in writing. If he is informed of them, he can be placed under an obligation to divulge them to the appointing body of another institution if it inquires why he is leaving his present position. Similarly, a written record is likely to become the basis for continuing responses by his former institution to prospective appointing bodies and may thus jeopardize his chances for obtaining positions over an extended period.

At many institutions, moreover, the procedures of evaluation and decision may make it difficult, if not impossible, to compile a statement of reasons which precisely reflects the basis of the decision. When a number of faculty members participate in the decision, they may oppose a reappointment for a variety of reasons, few or none of which may represent a majority view. To include every reason, no matter how few have held it, in a written statement to the faculty member may misrepresent the general view and damage unnecessarily both the faculty member's morale and his professional future.

In many situations, of course, a decision not to reappoint will not reflect adversely upon the faculty member. An institution may, for example, find it necessary for financial or other reasons to restrict its offerings in a given department. A number of institutions appoint more faculty members than they expect to give tenure; at such institutions a limit has been placed on the number of faculty at each rank, and the acquisition of tenure depends not only upon satisfactory performance but also upon an opening in the ranks above instructor or assistant professor. Nonrenewal in these cases is not likely to be psychologically damaging or to suggest a serious adverse judgment.

In these situations, providing a statement of reasons, either written or oral, should pose no difficulty, and such a statement may in fact assist the faculty member in his search for a new position. In other situations, in spite of his awareness of the considerations cited above, the faculty member may ask to be advised of the reasons which contributed to his nonreappointment, and Committee A believes that he should be given such advice. It believes also that he should have the opportunity to request a reconsideration by the decision-making body.

We accordingly make the following recommendation:

3. *Notice of Reasons.* In the event of a decision not to renew his appointment, the faculty member should be informed of the decision in writing, and, if he so requests, he should be advised of the reasons which contributed to that decision. He should also have the opportunity to request a reconsideration by the decision-making body.

Written Reasons

Having been given orally the reasons which contributed

to his nonreappointment, the faculty member, to avoid misunderstanding, may request that they be confirmed in writing. He may wish to petition the appropriate faculty committee, in accordance with Regulation 10 of Committee A's *Recommended Institutional Regulations*,[3] to consider an allegation that the reasons he was given violate his academic freedom, or that the primary reasons for the notice of nonreappointment were not stated and constitute a violation of his academic freedom. He may wish to petition a committee, in accordance with Regulation 2(f) of the *Recommended Institutional Regulations*, to consider a complaint that the decision resulted from inadequate consideration and was therefore unfair to him. He may feel that a written statement of reasons may be useful to him in pursuing his professional career.

If the department chairman or other appropriate institutional officer to whom the request is made feels that confirming the oral statement in writing may be damaging to the faculty member on grounds such as those cited earlier in this statement, Committee A believes that it would be desirable for him to explain the possible adverse consequences of confirming the oral statement in writing. If in spite of this explanation the faculty member continues to request a written statement, Committee A believes that his request should be honored.

We accordingly make the following recommendation:

4. *Written Reasons.* If the faculty member expresses a desire to petition the grievance committee (such as is described in Regulations 2(f) and 10 of Committee A's *Recommended Institutional Regulations),* or any other appropriate committee, to use its good offices of inquiry, recommendation, and report, or if he makes the request for any other reason satisfactory to himself alone, he should have the reasons given in explanation of the nonrenewal confirmed in writing.

Review Procedures: Allegations of Academic Freedom Violations

The best safeguard against a proliferation of grievance petitions on a given campus is the observance of sound principles and procedures of academic freedom and tenure and of institutional government. Committee A believes that observance of the procedures recommended in this statement — procedures which would provide guidance to nontenured faculty members, help assure them of a fair professional evaluation, and enlighten them concerning the reasons contributing to key decisions of their colleagues — would constitute a further step in the achievement of harmonious faculty relationships and the development of well-qualified faculties.

Even with the best practices and procedures, however, faculty members will at times feel that they have been improperly or unjustly treated and may wish another faculty group to review a decision of the faculty body immediately involved. Committee A believes that fairness both to the individual and the institution requires that the institution provide for such a review when it is requested. A possible violation of academic freedom is of vital concern to the institution as a whole, and where a violation is alleged it is of cardinal importance to the faculty and the administration to determine whether substantial grounds for the allegation exist. The institution should also be concerned to see that decisions respecting reappointment are based upon adequate consideration, and provision should thus be made for a review of allegations by affected faculty members that the consideration has been inadequate.

Because of the broader significance of a violation of academic freedom, Committee A believes that the procedures to be followed in these two kinds of complaints should be kept separate. Regulation 10 of the *Recommended Institutional Regulations,* mentioned earlier in this statement, provides a specific procedure for the review of complaints that academic freedom has been violated.[4]

> If a faculty member on probationary or other nontenured appointment alleges that a decision not to reappoint him was based significantly on considerations violative of (1) academic freedom or (2) governing policies on making appointments without prejudice with respect to race, sex, religion, or national origin, the allegation will be given preliminary consideration by the [insert name of committee], which will seek to settle the matter by informal methods. His allegation shall be accompanied by a statement that he agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the institution may allege in support of its decision. If the difficulty is unresolved at this stage, and if the committee so recommends, the matter will be heard in the manner set forth in Regulations 5 and 6, except that the faculty member making the complaint is responsible for stating the grounds upon which he bases his allegations, and the burden of proof shall rest upon him. If he succeeds in establishing a *prima facie* case, it is incumbent upon those who made the decision not to reappoint him to come forward with evidence in support of their decision.

We accordingly make the following recommendation:

5. *Petition for Review Alleging an Academic Freedom Violation* (Regulation 10, *Recommended Institutional Regulations).* Insofar as the petition for review alleges a violation of academic freedom, the functions of the committee which reviews the faculty member's petition should be the following:

(a) To determine whether or not the notice of nonreappointment constitutes on its face a violation of academic freedom.
(b) To seek to settle the matter by informal methods.
(c) If the matter remains unresolved, to decide whether or not the evidence submitted in support of the petition warrants a recommendation that a formal proceeding be conducted in accordance with Regulations 5 and 6 of the *Recommended Institutional Regulations,* with the burden of proof resting upon the complaining faculty member.

Review Procedures: Allegations of Inadequate Consideration

Complaints of inadequate consideration are likely to re-

[3] This statement as adopted in 1971 referred to specific portions of the 1968 text of the *Recommended Institutional Regulations.* This and subsequent references have been updated to conform with the *Recommended Institutional Regulations* as revised and published in 1976.

[4] Because the *Recommended Institutional Regulations* remain under review by Committee A, faculties processing complaints under Regulations 2(f) and 10 may wish to secure the further advice of the Association's Washington Office.

late to matters of professional judgment, where the department or departmental agency should have primary authority. For this reason, Committee A believes that the basic functions of the review committee should be to determine whether adequate consideration was given to the appropriate faculty body's decision and, if it determines otherwise, to request reconsideration by that body.

It is easier to state what the standard "adequate consideration" does not mean than to specify in detail what it does. It does not mean that the review committee should substitute its own judgment for that of members of the department on the merits of whether the candidate should be reappointed or given tenure. The conscientious judgment of the candidate's department colleagues must prevail if the invaluable tradition of departmental autonomy in professional judgments is to prevail. The term "adequate consideration" refers essentially to procedural rather than substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in the light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a *bona fide* exercise of professional academic judgment? These are the kinds of questions suggested by the standard "adequate consideration."

If in applying this standard the review committee concludes that adequate consideration was not given, its appropriate response should be to recommend to the department that it assess the merits once again, this time remedying the inadequacies of its prior consideration.

An acceptable review procedure, representing one procedural system within which such judgments may be made, is outlined in Regulation 15 of the *Recommended Institutional Regulations*, as follows:

> If a faculty member feels that he has cause for grievance in any matter [other than dismissal proceedings — such matters as salaries, assignment of teaching duties, assignment of space or other facilities, and propriety of conduct] he may petition the elected faculty grievance committee [here name the committee] for redress. The petition shall set forth in detail the nature of the grievance and shall state against whom the grievance is directed. It shall contain any factual or other data which the petitioner deems pertinent to his case. The committee will have the right to decide whether or not the facts merit a detailed investigation. Submission of a petition will not automatically entail investigation or detailed consideration thereof. The committee may seek to bring about a settlement of the issue satisfactory to the parties. If in the opinion of the committee such a settlement is not possible or is not appropriate, the committee will report its findings and recommendations to the petitioner and to the appropriate administrative officer and faculty body [here identify], and the petitioner will, at his request, be provided an opportunity to present his case to them.
>
> The grievance committee will consist of three [or some other number] elected members of the faculty. No officer of administration shall serve on the committee.

We accordingly make the following recommendation:

6. *Petition for Review Alleging Inadequate Consideration* (Regulation 2[f], *Recommended Institutional Regulations*). Insofar as the petition for review alleges inadequate consideration, the functions of the committee which reviews the faculty member's petition should be the following:

(a) To determine whether the decision of the appropriate faculty body was the result of adequate consideration in terms of the relevant standards of the institution, with the understanding that the review committee should not substitute its judgment on the merits for that of the faculty body.

(b) To request reconsideration by the faculty body when the committee believes that adequate consideration was not given to the faculty member's qualifications. (In such instances, the committee should indicate the respects in which it believes the consideration may have been inadequate.)

(c) To provide copies of its report and recommendation to the faculty member, the faculty body, and the president or other appropriate administrative officer.

The Standards for Notice of Nonreappointment

Approved by the Council of the American Association of University Professors in October, 1963, and endorsed by the Fiftieth Annual Meeting in 1964 as Association policy.

Because a probationary appointment, even though for a fixed or stated term, carries an expectation of renewal, the faculty member should be explicitly informed of a decision not to renew his appointment, in order that he may seek a position at another college or university. Such notice should be given at an early date, since a failure to secure another position for the ensuing academic year will deny the faculty member the opportunity to practice his profession. The purpose of this Statement is to set forth in detail, for the use of the academic profession, those standards for notice of nonreappointment which the Association over a period of years has actively supported and which are expressed as a general principle in the 1940 *Statement of Principles on Academic Freedom and Tenure.*

The Standards for Notice

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

(1) *Not later than March 1 of the first academic year of service,* if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

(2) *Not later than December 15 of the second academic year of service,* if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

(3) At least twelve months before the expiration of an appointment after two or more years in the institution.

Committee A Statement on Extramural Utterances

The Statement which follows was approved by the Association's Committee A on Academic Freedom and Tenure in October, 1964. Its purpose is to clarify those sections of the 1940 Statement of Principles on Academic Freedom and Tenure *relating to the faculty member's exercise of his freedom of speech as a citizen. The Statement emphasizes the essential considerations and procedures when a faculty member's utterances raise grave doubts concerning his fitness for his position.*

The 1940 Statement of Principles asserts the faculty member's right to speak or write, as citizen, free from institutional censorship or discipline. At the same time it calls attention to the faculty member's special obligations arising from his position in the community: to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to make every effort to indicate that he is not an institutional spokesman. An interpretation of the 1940 Statement, agreed to at a conference of the AAC and the AAUP held on November 8, 1940, states that an administration may file charges in accordance with procedures outlined in the Statement if it feels that a faculty member has failed to observe the above admonitions and believes that his extramural utterances raise grave doubts concerning his fitness for his position.

In cases involving such charges, it is essential that the hearing should be conducted by an appropriate—preferably elected—faculty committee, as provided in Section 4 of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings.*[1] The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his position. Extramural utterances rarely bear upon the faculty member's fitness for his position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar. In the absence of weighty evidence of unfitness, the administration should not prefer charges; and if it is not clearly proved in the hearing that the faculty member is unfit for his position, the faculty committee should make a finding in favor of the faculty member concerned.

Committee A asserts that it will view with particular gravity an administrative or board reversal of a favorable faculty committee hearing judgment in a case involving extramural utterances. In the words of the 1940 Statement of Principles, "the administration should remember that teachers are citizens and should be accorded the freedom of citizens." In a democratic society freedom of speech is an indispensable right of the citizen. Committee A will vigorously uphold that right.

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[1] Section 4 provides:

> The committee of faculty members to conduct the hearing and reach a decision should either be an elected standing committee not previously concerned with the case or a committee established as soon as possible after the president's letter to the faculty member has been sent. The choice of members of the hearing committee should be on the basis of their objectivity and competence and of the regard in which they are held in the academic community. The committee should elect its own chairman.

1976 Recommended Institutional Regulations on Academic Freedom and Tenure

Recommended Institutional Regulations on Academic Freedom and Tenure *set forth, in language suitable for use by an institution of higher education, rules which derive from the chief provisions and interpretations of the 1940* Statement of Principles on Academic Freedom and Tenure *and of the 1958* Statement on Procedural Standards in Faculty Dismissal Proceedings. *The* Recommended Institutional Regulations *were first formulated by Committee A on Academic Freedom and Tenure in 1957. A revised and expanded text, approved by Committee A in 1968, reflected the development of Association standards and procedures as set forth in the 1961* Statement on Recruitment and Resignation of Faculty Members, *the 1964* Statement on the Standards for Notice of Nonreappointment, *and the 1966* Statement on Government of Colleges and Universities.

The current revision, approved by Committee A in 1976, is based upon the Association's continuing experience in evaluating regulations actually in force at particular institutions. The 1976 revision is also based upon further definition of the standards and procedures of the Association as set forth in the 1970 Interpretive Comments *of the 1940* Statement of Principles, *the 1971 Council* Statement on Freedom and Responsibility, *the 1971* Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments, *the 1972* Statement of Principles on Leaves of Absence, *and recommended procedure adopted by the Council in 1976 on* Termination of Faculty Appointments because of Financial Exigency, Discontinuance of a Program or Department, or Medical Reasons. *The Association will be glad to assist in interpretation of the regulations or to consult about their incorporation in, or adaptation to, the rules of a particular college or university.*

Committee A will welcome comment on the 1976 Recommended Institutional Regulations *from Association members, chapters, conferences, and other interested persons and organizations.*

Foreword

These regulations are designed to enable the [named institution] to protect academic freedom and tenure and the requirements of academic due process. The principles implicit in these regulations are for the benefit of all who are involved with or are affected by the policies and programs of the institution. A college or university is a marketplace of ideas, and it cannot fulfill its purposes of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. In the words of the United States Supreme Court, "Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die."

1. *Statement of Terms of Appointment*

   (a) The terms and conditions of every appointment to the faculty will be stated or confirmed in writing, and a copy of the appointment document will be supplied to the faculty member. Any subsequent extensions or modifications of an appointment, and any special understandings, or any notices incumbent upon either party to provide, will be stated or confirmed in writing and a copy will be given to the faculty member.

   (b) With the exception of special appointments clearly limited to a brief association with the institution, and reappointments of retired fac-

ulty members on special conditions, all full-time appointments to the rank of instructor or higher are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure.

(c) Except for faculty members who have tenure status, every person with a teaching or research appointment of any kind will be informed each year in writing of his appointment and of all matters relative to his eligibility for the acquisition of tenure.

2. *Probationary Appointments*

(a) Probationary appointments may be for one year, or for other stated periods, subject to renewal. The total period of full-time service prior to the acquisition of continuous tenure will not exceed____years,[1] including all previous full-time service with the rank of instructor or higher in other institutions of higher learning [*except* that the probationary period may extend to as much as four years, even if the total full-time service in the profession thereby exceeds seven years; the terms of such extension will be stated in writing at the time of initial appointment].[2] Scholarly leave of absence for one year or less will count as part of the probationary period as if it were prior service at another institution, unless the individual and the institution agree in writing to an exception to this provision at the time the leave is granted.

(b) The faculty member will be advised, at the time of initial appointment, of the substantive standards and procedures generally employed in decisions affecting renewal and tenure. Any special standards adopted by the faculty member's department or school will also be brought to his attention. The faculty member will be advised of the time when decisions affecting renewal or tenure are ordinarily made, and will be given the opportunity to submit material which he believes will be helpful to an adequate consideration of his circumstances.

(c) Regardless of the stated term or other provisions of any appointments, written notice that a probationary appointment is not to be renewed will be given to the faculty member in advance of the expiration of his appointment, as follows: (1) Not later than March 1 of the first academic year of service if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination; (2) not later than December 15 of the second academic year of service if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination; (3) at least twelve months before the expiration of an appointment after two or more years of service at the institution. The institution will normally notify faculty members of the terms and conditions of their renewals by March 15, but in no case will such information be given later than ____.[3]

(d) When a faculty recommendation or a decision not to renew an appointment has first been reached, the faculty member involved will be informed of that recommendation or decision in writing by the body or individual making the initial recommendation or decision, and, if he so requests, he will be advised of the reasons which contributed to that decision. The faculty member may request a reconsideration by the recommending or deciding body.

(e) If the faculty member so requests, the reasons given in explanation of the nonrenewal will be confirmed in writing.

(f) Insofar as the faculty member alleges that the decision against renewal by the appropriate faculty body was based on inadequate consideration, the committee which reviews the faculty member's allegation will determine whether the decision was the result of adequate consideration in terms of the relevant standards of the institution. The review committee will not substitute its judgment on the merits for that of the faculty body. If the review committee believes that adequate consideration was not given to the faculty member's qualifications, it will request reconsideration by the faculty body, indicating the respects in which it believes the consideration may have been inadequate. It will provide copies of its findings to the faculty member, the faculty body, and the president or other appropriate administrative officer.

3. *Termination of Appointment by the Faculty Member*

A faculty member may terminate his appointment effective at the end of an academic year, provided that he gives notice in writing at the earliest possible opportunity, but not later than May 15, or 30 days after receiving notification of the terms of his appointment for the coming year, whichever date occurs later. The faculty member may properly request a waiver of this requirement of notice in case of hardship or in a situation where he would otherwise be denied substantial professional advancement or other opportunity.

[1] [Under the 1940 *Statement of Principles on Academic Freedom and Tenure*, this period may not exceed seven years.]

[2] [The exception here noted applies only to an institution whose maximum probationary period exceeds four years.]

[3] [April 15 is the recommended date.]

4. *Termination of Appointments by the Institution*

(a) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may be effected by the institution only for adequate cause.

(b) If termination takes the form of a dismissal for cause, it will be pursuant to the procedure specified in Regulation 5.

Financial Exigency

(c) (1) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur under extraordinary circumstances because of a demonstrably *bona fide* financial exigency, i.e., an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.

[NOTE: Each institution in adopting regulations on financial exigency will need to decide how to share and allocate the hard judgments and decisions that are necessary in such a crisis.

As a first step, there should be a faculty body which participates in the decision that a condition of financial exigency exists or is imminent,[4] and that all feasible alternatives to termination of appointments have been pursued.

Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an appropriate faculty body.[5] The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of age and length of service.

The responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty. The allocation of this responsibility may vary according to the size and character of the institution, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a faculty member given notice of proposed termination of appointment will be governed by the following procedure.]

(2) If the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered presumptively valid.

(iii) Whether the criteria are being properly applied in the individual case.

(3) If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments except

[4] See "The Role of the Faculty in Budgetary and Salary Matters," (*AAUP Bulletin*, 62 [Winter, 1976], pp. 379-81), and especially the following passages:

> The faculty should participate both in the preparation of the total institutional budget, and (within the framework of the total budget) in decisions relevant to the further apportioning of its specific fiscal divisions (salaries, academic programs, tuition, physical plants and grounds, etc.). The soundness of resulting decisions should be enhanced if an elected representative committee of the faculty participates in deciding on the overall allocation of institutional resources and the proportion to be devoted directly to the academic program. This committee should be given access to all information that it requires to perform its task effectively, and it should have the opportunity to confer periodically with representatives of the administration and governing board. . . .
>
> Circumstances of financial exigency obviously pose special problems. At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and specifically as possible of significant impending financial difficulties. The faculty—with substantial representation from its nontenured as well as its tenured members, since it is the former who are likely to bear the brunt of the reduction—should participate at the department, college or professional school, and institutionwide levels, in key decisions as to the future of the institution and of specific academic programs within the institution. The faculty, employing accepted standards of due process, should assume primary responsibility for determining the status of individual faculty members.

[5] See "Statement on Government of Colleges and Universities" (*AAUP Bulletin*, 52 [Winter, 1966], pp. 375-79), and especially the following passage:

> Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy.

in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.

(4) Before terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.

(5) In all cases of termination of appointment because of financial exigency, the faculty member concerned will be given notice or severance salary not less than as prescribed in Regulation 8.

(6) In all cases of termination of appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline it.

Discontinuance of Program or Department Not Mandated by Financial Exigency[6]

(d) Termination of an appointment with continuous tenure, or of a probationary or specified appointment before the end of the specified term, may occur as a result of *bona fide* formal discontinuance of a program or department of instruction. The following standards and procedures will apply.

(1) The decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof.

[NOTE: "Educational considerations" do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.]

(2) Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. If no position is available within the institution, with or without retraining, the faculty member's appointment then may be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of past and potential service.

[NOTE: When an institution proposes to discontinue a program or department of instruction, it should plan to bear the costs of relocating, training, or otherwise compensating faculty members adversely affected.]

(3) A faculty member may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5 but the essentials of an on-the-record adjudicative hearing will be observed. The issues in such a hearing may include the institution's failure to satisfy any of the conditions specified in this section. In such a hearing a faculty determination that a program or department is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest on the administration.

Termination for Medical Reasons

(e) Termination of an appointment with tenure, or of a probationary or special appointment before the end of the period of appointment, for medical reasons, will be based upon clear and convincing medical evidence that the faculty member cannot continue to fulfill the terms and conditions of the appointment. The decision to terminate will be reached only after there has been appropriate consultation and after the faculty member concerned, or someone representing the faculty member, has been informed of the basis of the proposed action and has been afforded an opportunity to present the faculty member's position and to respond to the evidence. If the faculty member so requests, the evidence will be reviewed by the Faculty Committee on Academic Freedom and Tenure [or whatever title it may have] before a final decision is made by the governing board on the recommendation of the administration. The faculty member will be given severance salary not less than as prescribed in Regulation 8.

Review

(f) In cases of termination of appointment, the governing board will be available for ultimate review.

[6] When discontinuance of a program or department is mandated by financial exigency of the institution, the standards of section 4(c) above will apply.

5. *Dismissal Procedures*

(a) Adequate cause for a dismissal will be related, directly and substantially, to the fitness of the faculty member in his professional capacity as a teacher or researcher. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.

(b) Dismissal of a faculty member with continuous tenure, or with a special or probationary appointment before the end of the specified term, will be preceded by: (1) discussions between the faculty member and appropriate administrative officers looking toward a mutual settlement; (2) informal inquiry by the duly elected faculty committee [insert name of committee] which may, failing to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the President; (3) a statement of charges, framed with reasonable particularity by the President or the President's delegate.

(c) A dismissal, as defined in Regulation 5(a), will be preceded by a statement of reasons, and the individual concerned will have the right to be heard initially by the elected faculty hearing committee [insert name of committee].[7] Members deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party or on their own initiative. Each party will have a maximum of two challenges without stated cause.[8]

(1) Pending a final decision by the hearing committee, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to himself or others is threatened by his continuance. Before suspending a faculty member, pending an ultimate determination of his status through the institution's hearing procedures, the administration will consult with the Faculty Committee on Academic Freedom and Tenure [or whatever other title it may have] concerning the propriety, the length, and the other conditions of the suspension. A suspension which is intended to be final is a dismissal, and will be treated as such. Salary will continue during the period of the suspension.

(2) The hearing committee may, with the consent of the parties concerned, hold joint prehearing meetings with the parties in order to (i) simplify the issues, (ii) effect stipulations of facts, (iii) provide for the exchange of documentary or other information, and (iv) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

(3) Service of notice of hearing with specific charges in writing will be made at least twenty days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges against him or asserts that the charges do not support a finding of adequate cause, the hearing tribunal will evaluate all available evidence and rest its recommendation upon the evidence in the record.

(4) The committee, in consultation with the President and the faculty member, will exercise its judgment as to whether the hearing should be public or private.

(5) During the proceedings the faculty member will be permitted to have an academic advisor and counsel of his own choice.

(6) At the request of either party or the hearing committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.

(7) A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost, at the faculty member's request.

(8) The burden of proof that adequate cause exists rests with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

(9) The hearing committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

(10) The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the hearing committee in securing witnesses and making available documentary and other evidence.

(11) The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and if possible provide for interrogatories.

(12) In the hearing of charges of incompetence, the testimony shall include that of qualified faculty members from this or other institutions of higher education.

(13) The hearing committee will not be

[7] [This committee should not be the same as the committee referred to in Regulation 5(b) (2).]

[8] [Regulations of the institution should provide for alternates, or for some other method of filling vacancies on the hearing committee resulting from disqualification, challenge without stated cause, illness, resignation, or any other reason.]

bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

(14) The findings of fact and the decision will be based solely on the hearing record.

(15) Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the governing board of the institution. The President and the faculty member will be notified of the decision in writing and will be given a copy of the record of the hearing.

(16) If the hearing committee concludes that adequate cause for dismissal has not been established by the evidence in the record, it will so report to the President. If the President rejects the report, he will state his reasons for doing so, in writing, to the hearing committee and to the faculty member, and provide an opportunity for response before transmitting the case to the governing board. If the hearing committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons.

6. *Action by the Governing Board*

If dismissal or other severe sanction is recommended, the President will, on request of the faculty member, transmit to the governing board the record of the case. The governing board's review will be based on the record of the committee hearing, and it will provide opportunity for argument, oral or written or both, by the principals at the hearings or by their representatives. The decision of the hearing committee will either be sustained, or the proceeding returned to the committee with specific objections. The committee will then reconsider, taking into account the stated objections and receiving new evidence if necessary. The governing board will make a final decision only after study of the committee's reconsideration.

7. *Procedures for Imposition of Sanctions Other than Dismissal*

(a) If the administration believes that the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently grave to justify imposition of a severe sanction, such as suspension from service for a stated period, the administration may institute a proceeding to impose such a severe sanction; the procedures outlined in Regulation 5 shall govern such a proceeding.

(b) If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, such as a reprimand, it shall notify the faculty member of the basis of the proposed sanction and provide him with an opportunity to persuade the administration that the proposed sanction should not be imposed. A faculty member who believes that a major sanction has been incorrectly imposed under this paragraph, or that a minor sanction has been unjustly imposed, may, pursuant to Regulation 15, petition the faculty grievance committee for such action as may be appropriate.

8. *Terminal Salary or Notice*

If the appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of probationary service; at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service; at least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure. This provision for terminal notice or salary need not apply in the event that there has been a finding that the conduct which justified dismissal involved moral turpitude. On the recommendation of the faculty hearing committee or the President, the governing board, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.

9. *Academic Freedom*

All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, formulated by the Association of American Colleges and the American Association of University Professors.

10. *Reappointment of Nontenured Faculty*

If a faculty member on probationary or other nontenured appointment alleges that a decision not to reappoint him was based significantly on considerations violative of (1) aca-

demic freedom or (2) governing policies on making appointments without prejudice with respect to race, sex, religion, or national origin, the allegation will be given preliminary consideration by the [insert name of committee], which will seek to settle the matter by informal methods. The allegation shall be accompained by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the institution may allege in support of its decision. If the difficulty is unresolved at this stage, and if the committee so recommends, the matter will be heard in the manner set forth in Regulations 5 and 6, except that the faculty member making the complaint is responsible for stating the grounds upon which he bases his allegations, and the burden of proof shall rest upon him. If the faculty member succeeds in establishing a *prima facie* case, it is incumbent upon those who made the decision not to reappoint him to come forward with evidence in support of their decision.

11. *Administrative Personnel*

The foregoing regulations apply to administrative personnel who hold academic rank, but only in their capacity as faculty members. Where an administrator alleges that a consideration violative of academic freedom significantly contributed to a decision to terminate his appointment to an administrative post, or not to reappoint him, he is entitled to the procedures set forth in Regulation 10.

12. *Political Activities of Faculty Members*

Faculty members, as citizens, are free to engage in political activities. Where necessary, leaves of absence may be given for the duration of an election campaign or a term of office, on timely application, and for a reasonable period of time. The terms of such leave of absence shall be set forth in writing, and the leave will not affect unfavorably the tenure status of a faculty member, except that time spent on such leave will not count as probationary service unless otherwise agreed to.[9]

[NOTE: Regulations 13, 14, and 15 are suggested in tentative form, and will require adaptation to the specific structure and operations of the institution; the provisions as recommended here are intended only to indicate the nature of the provisions to be included, and not to offer specific detail.]

13. *Graduate Student Academic Staff*

(a) The terms and conditions of every appointment to a graduate or teaching assistantship will be stated in writing, and a copy of the appointment document will be supplied to the graduate or teaching assistant.

(b) In no case will a graduate or teaching assistant be dismissed without having been provided with a statement of reasons and an opportunity to be heard before a duly constituted committee. (A dismissal is a termination before the end of the period of appointment.)

(c) A graduate or teaching assistant who establishes a *prima facie* case to the satisfaction of a duly constituted committee that a decision not to reappoint him was based significantly on considerations violative of (1) academic freedom or (2) governing policies on making appointments without prejudice with respect to race, sex, religion, or national origin, will be given a statement of reasons by those responsible for the nonreappointment and an opportunity to be heard by the committee.

(d) Graduate or teaching assistants shall have access to the faculty grievance committee, as provided in Regulation 15.

14. *Other Academic Staff*

(a) In no case will a member of the academic staff[10] who is not otherwise protected by the preceding regulations which relate to dismissal proceedings be dismissed without having been provided with a statement of reasons and an opportunity to be heard before a duly constituted committee. (A dismissal is a termination before the end of the period of appointment.)

(b) With respect to the nonreappointment of a member of such academic staff who establishes a *prima facie* case to the satisfaction of a duly constituted committee that a consideration violative of academic freedom significantly contributed to the nonreappointment, he will be given a statement of reasons by those responsible for the nonreappointment and an opportunity to be heard by the committee.

15. *Grievance Procedure*

If any faculty member feels that he has cause for grievance in any matter not covered by the procedures described in the foregoing Regulations, he may petition the elected faculty grievance committee [here name the committee] for redress. The petition shall set forth in detail the nature of the grievance and shall state against whom the grievance is directed. It

[9] [See "Statement on Professors and Political Activity," *AAUP Bulletin*, 55 (Autumn, 1969), pp. 388-389.]

[10] [Each institution should define with particularity who are members of the academic staff.]

shall contain any factual or other data which the petitioner deems pertinent to his case. The committee will have the right to decide whether or not the facts merit a detailed investigation. Submission of a petition will not automatically entail investigation or detailed consideration thereof. The committee may seek to bring about a settlement of the issue satisfactory to the parties. If in the opinion of the committee such a settlement is not possible or is not appropriate, the committee will report its findings and recommendations to the petitioner and to the appropriate administrative officer and faculty body, and the petitioner will, at his request, be provided an opportunity to present his case to them. The grievance committee will consist of three [or some other number] elected members of the faculty. No officer of administration shall serve on the committee.

Note on Implementation

The Recommended Institutional Regulations here presented will require for their implementation a number of structural arrangements and agencies. For example, the Regulations will need support by:

(a) channels of communication between all the involved components of the institution, and between them and a concerned faculty member,

(b) definitions of corporate and individual faculty status within the college or university government, and of the role of the faculty in decisions relating to academic freedom and tenure,

(c) appropriate procedures for the creation and operation of faculty committees, with particular regard to the principles of faculty authority and responsibility.

The forms which these supporting elements assume will of course vary from one institution to another. Consequently, no detailed description of the elements is attempted in these Recommended Institutional Regulations. With respect to the principles involved, guidance will be found in the 1966 *Statement on Government of Colleges and Universities*, jointly formulated by the American Council on Education, the Association of Governing Boards of Universities and Colleges, and the American Association of University Professors.

On Discrimination

The statement which follows, reflecting positions taken by the Sixty-first and Sixty-second Annual Meetings, was approved in October, 1976, by the Association's Council.

The Association is committed to use its procedures and to take measures, including censure, against colleges and universities practicing illegal or unconstitutional discrimination, or discrimination on a basis not demonstrably related to the job function involved, including but not limited to age, sex, physical handicap, race, religion, national origin, marital status, or sexual or affectional preference.

On the Imposition of Tenure Quotas

The statement which follows was approved by the Association's Committee A on Academic Freedom and Tenure on October 18, 1973. The Council voted on October 20, 1973, to concur in the statement.

Many institutions of higher education have had to consider ways of accommodating the number and composition of their faculty to a static or declining financial situation. The Association has developed criteria applicable where a reduction in faculty positions is contemplated because of financial exigency or discontinuance of a program.[1] This statement will concern itself with institutional policies designed to shape the overall composition of the faculty by limiting the number of tenured positions, and especially with those policies which establish a fixed maximum percentage of faculty who may possess tenure at a given time.[2]

The Association, while recognizing the concerns that motivate such quotas, opposes them. They are an unwise solution to the problem they purport to solve, and can have grave consequences for the institutions that adopt them. Moreover, they are not compelled, for there are other more nearly satisfactory alternatives available.

Recognizing that tenure best protects academic freedom, but that it is usually undesirable to afford tenure automatically upon an individual's joining a faculty, the American Association of University Professors has supported the employment of a stated maximum probationary period, of sufficient but not excessive length, during which the academic qualifications and performance of newer faculty members can be evaluated in terms of institutional standards and expectations. Indeed, it is principally to provide each institution with a reasonable opportunity of assessing the skills of probationary appointees in terms of its tenure standards (and the availability of others whom it may also desire to consider for tenured appointment) that this Association has not favored policies of automatic tenure. However, to continue the service of faculty members beyond the maximum probationary period, while withholding tenure, presents an unwarranted hazard to their academic freedom.

Accordingly, institutions may properly set high standards for tenure, but they subvert the functions of tenure standards if they provide that, no matter how clearly nontenured faculty members meet any stated academic

[1] See Regulation 4(c) and (d) of Committee A's "Recommended Institutional Regulations on Academic Freedom and Tenure" (*AAUP Bulletin*, 62 [Summer, 1976], pp. 184-191).

See also the Association's statement on "The Role of the Faculty in Budgetary and Salary Matters" (*AAUP Bulletin*, 62 [Winter, 1976], pp. 379-381) and "On Institutional Policies Resulting from Financial Exigency: Some Operating Guidelines" (*AAUP Bulletin*, 60 [Summer, 1974], pp. 267-268).

[2] The report and recommendations of the Commission on Academic Tenure in Higher Education, published in 1973, call for "policies relating to the proportion of tenured and nontenured faculty that will be compatible with the composition of [the institution's] present staff, its resources, and its future objectives." See *Faculty Tenure* (San Francisco: Jossey-Bass Publishers, 1973), pp. 45-51, and particularly the Commission's recommendation on pages 50, 51.

standard (and no matter how well they compare with the tenured faculty and all others whom the institution is able to attract to that faculty), the system is such as to require their termination from the very positions in which they have served with unqualified distinction. Holding faculty members in nontenured service, and then releasing them because a numerical limit on tenured positions prohibits their retention, has the effect of nullifying probation. All full-time appointments, excepting only special appointments of specified brief duration and reappointments of retired faculty members on special conditions, should be either probationary relating to continuous tenure or with continuous tenure.[3] To make appointments which are destined to lead to nonretention because of a fixed numerical quota of tenured positions, obviating any realistic opportunity for the affected individuals to be evaluated for tenure on their academic record, is to depart from a basic feature of the system of tenure and thus to weaken the protections of academic freedom.

A variation to nonretention because of a tenure quota, one which Committee A finds wholly inimical to the principles of academic freedom which tenure serves, is the policy adopted at a few institutions of withholding tenure from admittedly qualified candidates who have completed the maximum probationary period but retaining them in a kind of holding pattern, perpetually more vulnerable than their tenured colleagues to termination, unless and until the quota eases for them and they too are granted tenure. Assuming they have fully earned an entitlement to tenure, there can be no justification for continuing them in a less favorable and more vulnerable status than their tenured colleagues.

Committee A, accordingly, opposes the adoption of tenure quotas for the following reasons:

(a) if combined with the possibility of additional term contracts beyond the period of maximum probationary service plainly adequate to determine the individual's entitlement to tenure, the system indefensibly extends conditions of jeopardy to academic freedom;

(b) probation with automatic termination is not probation; those whom quotas affect by automatically excluding them from consideration for tenure essentially are reduced to a terminal class of contract workers rendered incapable of full and equal faculty membership irrespective of the nature of the service they have given and irrespective of the professional excellence of that service;

(c) in designating a portion of the probationary regular faculty as ineligible to continue, in order to cope with needs of staff flexibility and financial constraints, a quota system is a crude and unjust substitute for more equitable methods of academic planning.

Committee A, in registering its concern over the fixing of a maximum numerical percentage of tenured faculty, does not suggest that an institution should be unconcerned with appointment policies which will permit it to bring new members into its faculty with some regularity. A sound academic program needs elements not only of continuity but of flexibility, which is served by the continuing opportunity to recruit new persons and to pursue new academic emphases. It is desirable for a faculty to include those recently arrived from the seminars of our graduate schools as well as those who are well established as scholars and teachers.

Such considerations of flexibility are often adduced in support of tenure quotas. But this misses two central points. First, the system of tenure does not exist as subordinate to convenience and flexibility. The protection of academic freedom must take precedence over the claimed advantages of increased flexibility.

Second, imposing a numerical limit on the percentage of tenured faculty disregards a range of other ways to attain a desired mix of senior and junior faculty. Indeed, it imposes an inequitable burden on a vulnerable portion of the faculty in a facile response to issues of academic staffing that should reflect far more comprehensive planning. Establishing fixed quotas may deprive the profession of a large part of the generation of scholars and teachers which currently populates the nontenured positions at our colleges and universities. It would be preferable by far to employ a variety of other measures—some affecting tenured faculty, others affecting probationary and nontenured faculty, and still others affecting prospective faculty members—to ensure that the necessary burdens of financial stringency and lack of growth are shared to some extent by all academic generations.

While opposing the imposition of tenure quotas, Committee A recognizes that the general proportion of a faculty on tenure can have an important long-range bearing on the nature and quality of an institution of higher education. Given a situation in which there is small prospect for significant growth in the total size of the faculty, considerations which merit attention include:

A. The desired distribution of tenured and nontenured faculty should be viewed as a long-term goal rather than a short-term solution. The ratio of tenured faculty is itself the dynamic consequence of a complex of academic decisions and developments, each of which can be reconsidered. These include (1) the rate of growth of the institution and its faculty; (2) the fraction of those appointed initially to tenured or probationary positions; (3) the use of visiting faculty members; (4) the use of graduate assistants; (5) the average length of the probationary period of nontenured faculty members who ultimately achieve tenure; (6) the fraction of nontenured faculty members who ultimately achieve tenure; (7) the institutional policy on retirement; and (8) the age distribution of the total faculty.

B. A satisfactory long-range plan may well imply that, along the way, the proportion of the faculty on tenure will at first increase and then, as the force of the plan takes effect, decrease. Just as the end of growth in the size of the faculty leads to a gradual increase in the ratio of those tenured, so the gradual aging of the present faculty will ultimately lead to a tendency for the ratio to decline. Most changes in academic person-

[3] See "Recommended Institutional Regulations on Academic Freedom and Tenure," Regulation 2(b).

nel policies require some lag in time before full implementation and impact, and there is nothing disastrous in a temporary bulge in the percentage of faculty members on tenure. On the other hand, long-range injury to an institution may result from rigid and hasty application of any single presumed remedy, such as the imposition of a fixed quota.

C. It should be recognized that, in the short run, reducing the proportion of a faculty on tenure produces very little benefit by way of flexibility. It is only over a period of several years that a change in the proportion acquires pertinency. If an institution finds itself, at the beginning of development of a long-range plan, at or near a preferred distribution which it wishes generally to maintain, it may well be sensible to choose consciously to exceed the desired distribution temporarily while the steps necessary to return to that distribution take effect.

D. Equity and institutional morale demand that all or almost all of the burden of satisfying the desired tenure ratio should not be placed upon the probationary faculty. Attractive accelerated retirement opportunities for senior tenured faculty present one possible alternative. Additionally, consideration may be given to planning carefully the proportion of teaching and research done by full-time and part-time tenured and probationary faculty, teaching assistants, and temporary appointees.

Foreclosing promotion to a tenured position because of a numerical quota is unacceptable. Stricter standards for the awarding of tenure can be developed over the years, with a consequent decrease in the probability of achieving tenure. But it is essential to distinguish a deliberate change in standards, retaining a positive probability of an individual's achieving tenure pursuant to well-defined criteria and adequate procedures for evaluation and review, from a situation in which the granting of tenure, for reasons unrelated to the individual's merits, is never a realistic possibility.

On Tenure and Reduction of the Mandatory Retirement Age

The following statement, recommended by Committee A and the Council, was approved in June, 1976, by the Association's Sixty-second Annual Meeting.

The *Statement of Principles on Academic Retirement and Insurance Plans*, drafted jointly with the Association of American Colleges, provides that, when a retirement policy is initiated or changed, reasonable transition provisions or special financial arrangements should be made for those otherwise adversely affected by the change. However, the *Statement* does not further define the category of those "adversely affected" or the institution's obligations to them. The need for some more refined definition has been underlined by recent litigation concerning the ability of an institution to reduce its mandatory retirement date.

Accordingly, the Council has adopted Committee A's interpretation of the *Statement* that in any case in which an institution considers lowering the mandatory retirement age, the higher age should continue to apply for faculty members who are within twenty years of the lower age at the time of the change. The Sixty-second Annual Meeting endorses that interpretation as a reasonable accommodation of individual and institutional interests. Moreover, the Annual Meeting reaffirms the importance of faculty participation in any decision to effect a change in retirement policy as required generally in the *Statement on Government of Colleges and Universities* and more particularly in the *Statement on the Role of Faculty in Budgetary and Salary Matters*.

Statement on Professors and Political Activity

The Statement which follows was prepared by a subcommittee of Committee A on Academic Freedom and Tenure and approved by Committee A. It was approved by the Council of the American Association of University Professors in May, 1969, and endorsed by the Fifty-fifth Annual Meeting as Association policy. It was endorsed in 1970 by the Association of American Colleges.

Introduction

The institutional regulations of many colleges and universities govern the participation of professors in political activity and public office holding. These regulations vary from absolute prohibitions against holding public office, campaigning for public office, or participating in the management of political campaigns, to requirements that professors engaging in such political activities merely inform administrative authorities in the college or university of their activities.

Some idea of the variety of regulations is suggested by the following examples. A large private institution in the Southwest states that when a member of the faculty accepts "appointment to or becomes a candidate for any public office whatever" his connection with the university is "automatically severed." A state university in the South declares that when any staff member "becomes a candidate for public office or takes an active part in the support of any political party or a candidate for office, he thereby automatically severs his connection with the university." A state college in the Northwest prohibits its faculty and other employees from holding "any political party office" or participating in the "management of a partisan political campaign." A less common regulation is found at a Midwestern state university which requires nontenured faculty members to resign before seeking part-time public office but allows a faculty member on tenure to request a leave of absence. This same university allows political activity only in parties that are qualified to place candidates on the ballot in that state. Given the widespread tendency of states to make it difficult for "third parties" to get on the ballot, such a regulation could prove to be very restrictive.

Some institutions allow participation only in local political activities. For example, one Southern state university requires a professor to resign before participating in a political campaign, as a candidate or manager, for state or federal office, but permits political activity at the local level. Other institutions prohibit professors from seeking or holding salaried public office but, by implication at least, permit them to hold nonpaying positions. One Southern state has such a regulation for all its public institutions of higher education. One university in that system, however, also prohibits holding appointive or elective public office without pay. One private university in the far West allows faculty members to hold remunerative part-time public offices while their university salaries are continued, but requires that they turn over to the university all compensation received for serving in the public office.

A number of colleges and universities require that professors obtain permission from administrative officers before engaging in political activity. Very few of those with such requirements specify the terms under which such permission will be granted or withheld, thus allowing for arbitrary decisions. Other institutions simply require that administrative officers be informed of the intent to seek or accept appointment to public office. A number of colleges and universities, including some state institutions, have regulations which conform to the principles stated below.

Some institutional regulations make reference to federal law governing political activities of federal employees, since faculty members frequently receive federal funds. There seems to be some misunderstanding of the relevance of this law. The federal Hatch Act prohibits federal employees and employees of state and local agencies paid wholly or in part from federal funds, among other things, to "take any active part in political management or political campaigns." It was amended in 1942 to exempt explicity from this quoted provision and certain others not involving oppressive or corrupt conduct "any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organiza-

tion," even though payment of salaries comes from federal funds. This amendment, which was stated to embody the original understanding and intent of Congress, was supported by expressions of confidence in the teaching profession and of the value attached to political activity by its members, subject to proper state, local, and institutional limitations.

Some states, in laws designed to restrict the political activities of state employees, have not been as careful as the federal Hatch Act to exclude from the terms of such laws the employees of educational institutions. Thus, some of these laws are ambiguous regarding the freedom of professors in public institutions to engage in political activity. For example, the statutes of one state say that "Contributions to aid the election of any other person to public office shall not be made or accepted by holders of nonelective public positions." Another state prohibits a holder of a public office not filled by election from contributing to the election of any person to public office or party position.

In view of the range and variety of institutional and legislative restrictions on political activities of professors, the American Association of University Professors feels the need of a definition of rights and obligations in this area. The following statement is offered as a guide to practice. It is hoped that colleges and universities will formulate and publish regulations consistent with these principles.

Statement

1. The college or university faculty member is a citizen and, like other citizens, should be free to engage in political activities so far as he is able to do so consistently with his obligations as a teacher and scholar.

2. Many kinds of political activity (e.g., holding part-time office in a political party, seeking election to any office under circumstances that do not require extensive campaigning, or serving by appointment or election in a part-time political office) are consistent with effective service as a member of a faculty. Other kinds of political activity (e.g., intensive campaigning for elective office, serving in a state legislature, or serving a limited term in a full-time position) will often require that the professor seek a leave of absence from his college or university.

3. In recognition of the legitimacy and social importance of political activity by professors, universities and colleges should provide institutional arrangements to permit it, similar to those applicable to other public or private extramural service. Such arrangements may include the reduction of the faculty member's workload or a leave of absence for the duration of an election campaign or a term of office, accompanied by equitable adjustment of compensation when necessary.

4. A faculty member seeking leave should recognize that he has a primary obligation to his institution and to his growth as an educator and scholar; he should be mindful of the problem which a leave of absence can create for his administration, his colleagues, and his students; and he should not abuse the privilege by too frequent or too late application or too extended a leave. If adjustments in his favor are made, such as a reduction of workload, he should expect them to be limited to a reasonable period.

5. A leave of absence incident to political activity should come under the institution's normal rules and regulations for leaves of absence. Such a leave should not affect unfavorably the tenure status of a faculty member, except that time spent on such leave from academic duties need not count as probationary service. The terms of a leave and its effect on the professor's status should be set forth in writing.

Faculty Appointment and Family Relationship

The following statement, prepared initially by the Association's Committee W on the Status of Women in the Academic Profession, was approved by that Committee and by Committee A on Academic Freedom and Tenure. The statement was adopted by the Council of the American Association of University Professors in April, 1971, and endorsed by the Fifty-seventh Annual Meeting as Association policy. It was endorsed by the Board of Directors of the Association of American Colleges at its June, 1971, meeting.

In recent years, and particularly in relation to efforts to define and safeguard the rights of women in academic life, members of the profession have evidenced increasing concern over policies and practices which prohibit in blanket fashion the appointment, retention, or the holding of tenure of more than one member of the same family on the faculty of an institution of higher education or of a school or department within an institution (so-called "antinepotism regulations"). Such policies and practices subject faculty members to an automatic decision on a basis wholly unrelated to academic qualifications and limit them unfairly in their opportunity to practice their profession. In addition, they are contrary to the best interests of the institution which is deprived of qualified faculty members on the basis of an inappropriate criterion, and of the community which is denied a sufficient utilization of its resources.

The Association recognizes the propriety of institutional regulations which would set reasonable restrictions on an individual's capacity to function as judge or advocate in specific situations involving members of his or her immediate family. Faculty members should neither initiate nor participate in institutional decisions involving a direct benefit (initial appointment, retention, promotion, salary, leave of absence, etc.) to members of their immediate families.

The Association does not believe, however, that the proscription of the opportunity of members of an immediate family to serve as colleagues is a sound method of avoiding the occasional abuses resulting from nepotism. Inasmuch as they constitute a continuing abuse to a significant number of individual members of the profession and to the profession as a body, the Association urges the discontinuance of these policies and practices, and the rescinding of laws and institutional regulations which perpetuate them.

Academic Freedom and Tenure in the Quest for National Security

A special committee, appointed by authority of the Council in 1955, presented the following report to the Council in 1956. The second section of the report, "Relevant General Principles," was adopted by the Council as its own statement, and these principles were then adopted by the 1956 Annual Meeting. A preceding section was introductory in nature and a following section presented a record of particular events and a group of specific recommendations.

Subsequent to the 1956 adoption of the "Relevant General Principles" of the report of the special committee, Committee A spent much time in an effort to clarify the position to be defended when a faculty member refuses to make disclosures to his own institution. The result, printed in the Spring, 1958, issue of the AAUP Bulletin, *was "A Statement of the Committee on Academic Freedom and Tenure, Supplementary to the 1956 Report, 'Academic Freedom and Tenure in the Quest for National Security'"; this statement is printed here immediately following the 1956 "Relevant General Principles."*

RELEVANT GENERAL PRINCIPLES

1. The justification of academic freedom

The maintenance of freedom of speech, publication, religion, and assembly (each of which is a component of intellectual freedom) is the breath of life of a democratic society. The need is greatest in fields of higher learning, where the use of reason and the cultivation of the highest forms of human expression are the basic methods. To an increasing extent, society has come to rely upon colleges and universities as a principal means of acquiring new knowledge and new techniques, of conveying the fruits of past and present learning to the community, and of transmitting these results to generations to come. Without freedom to explore, to criticize existing institutions, to exchange ideas, and to advocate solutions to human problems, faculty members and students cannot perform their work, cannot maintain their self-respect. Society suffers correspondingly. The liberty that is needed requires a freedom of thought and expression within colleges and universities, a freedom to carry the results of honest inquiry to the outside, and a freedom to influence human affairs in the same manner as other informed and unprejudiced persons do. Nor is the value of freedom lessened because error at times arises from its exercise. Learning, intellectual development, and social and scientific progress take place on a trial-and-error basis, and even the unsound cause or hypothesis may call forth the truth that displaces it. The error of one scholar has, indeed, stimulated others to discover the correcting truth.

The demand we of the academic world make for academic freedom is not made primarily for our own benefit. We enjoy the exercise of freedom; but the purposes of liberty lie, in a democracy, in the common welfare. It has recently been said, "With regard to some occupations, it is eminently in the interest of society that the men concerned speak their minds without fear of retribution. . . . The occupational work of the vast majority of people is largely independent of their thought and speech. The professor's work *consists* of his thought and speech. If he loses his position for what he writes or says, he will, as a rule, have to leave his profession, and may no longer be able effectively to question and challenge accepted doctrines or effectively to defend challenged doctrines. And if *some* professors lose their positions for what they write or say, the effect on many other professors will be such that their usefulness to their students and to society will be gravely reduced." [1]

We ask, then, for the maintenance of academic freedom and of the civil liberties of scholars, not as a special right, but as a means whereby we may make our appointed contribution to the life of the commonwealth and share equitably, but not more than equitably, in the American heritage. Society has the power to destroy or impair this freedom; but it cannot do so and retain the values of self-criticism and originality fostered by higher education. Again, in the words of the Princeton University Chapter:

[1] Fritz Machlup, "On Some Misconceptions Concerning Academic Freedom," *AAUP Bulletin*, Winter, 1955, p. 756.

> The spirit of free inquiry is not a privilege claimed for a single profession, but the touchstone of our character as a people, the proved source of our national strength. Its defilement in any area of our society is a threat to the entire body politic. . . .
>
> As teachers, loyal to the country and to the ideal of free inquiry which has sustained our nation's material, humanitarian, and spiritual progress, we cannot fail to condemn any inimical force whether proceeding from an avowed enemy or from a misguided friend within. In doing so we take our guidance from our conscience, from our sense of justice, and from the convictions of one of our Founding Fathers, who declared: "The opinions of men are not the object of civil government, nor under its jurisdiction" and "to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy." This belief was purchased through centuries of struggle extending far back into history beyond the discovery of the New World, but when enacted into law in the infancy of our nation was greeted in the Old World as "an example of legislative wisdom and liberality never before known." It would be one of the supreme ironies of history and one of the greatest tragedies if the confidence we exhibited in the weakness of youth should be destroyed through fear in the strength of our maturity.

2. The claims of military security

We accept unhesitatingly the application to colleges and universities of needed safeguards against the misuse of specially classified information important for military security, to the extent to which these are applied elsewhere. We insist, however, that these safeguards should extend only to persons who have access to such information; in no degree do they justify the proscription of individuals because of their beliefs or associations, unless these persons were knowingly participants in criminal acts or conspiracies, either in the past or at present. Inquiry into beliefs and associations should be restricted to those that are relevant to the discovery of such actual or threatened offenses.

3. Vigilance against subversion of the educational process

The academic community has a duty to defend society and itself from subversion of the educational process by dishonest tactics, including political conspiracies to deceive students and lead them unwittingly into acceptance of dogmas or false causes. Any member of the academic profession who has given reasonable evidence that he uses such tactics should be proceeded against forthwith, and should be expelled from his position if his guilt is established by rational procedure. Instances of the use of such tactics in the past by secret Communist groups in a few institutions seem to have occurred, and vigilance against the danger of their occurrence in the future is clearly required.

4. Disclaimer oaths and general investigations of college and university teachers

Nothing in the record of college and university teachers as a group justifies the imputation to them of a tendency toward disloyalty to the government or toward subversive intent with respect to the nation's institutions. In this regard they are not different from all other people. We deplore the entire recent tendency to look upon persons or groups suspiciously and to subject their characters and attitudes to special tests as a condition of employing them in responsible positions. This country's greatness is founded upon a belief in the individual's importance and upon a trust in his ability and worthiness to serve his fellow-men in accordance with his capacity. Only by gross misconduct, proved by means of due process, should the right to this trust be lost, and then only to the extent necessary to defend the common interest. The confidence reposed in the individual and in his integrity, and the independence of decision and action granted him, have been vindicated throughout our history by the loyalty of our citizens, and by their willingness to make sacrifices in times of crisis. With infrequent exceptions, even those who have pursued false causes and have seemed at times to threaten the nation's fundamental principles have done so, as history generally recognizes, out of concern for the general welfare as they saw it.

For all these reasons, and because of the unhappy disruption of normal academic work which extreme actions in the name of security entail, as well as because of their evident fruitlessness, we oppose the imposition of disclaimer oaths, whereby individuals are compelled to swear or affirm that they do not advocate or have not advocated, or that they are not or have not been members of any organizations which advocate, overthrow of the government. For similar reasons, we oppose investigations of individuals against whom there is no reasonable suspicion of illegal or unprofessional conduct or of an intent to engage in such conduct. On the same grounds we oppose legislation which imposes upon supervisory officials the duty to certify that members of their staffs are free of subversive taint. We particularly object to these measures when they are directed against members of the academic profession as a special class apart from the population as a whole. Not only is the stigma of such a discrimination unjustified, but the application of these discriminatory measures denies the particular need for freedom from pressures and restrictions, which is a productive requirement of the academic profession and, for similar reasons, of lawmakers, judges, clergymen, journalists, and the members of certain other professions. We urge the academic profession not to be lulled, by the hope of possible nonenforcement or by a merely routine application of these measures, into an acquiescence in their maintenance as "paper" requirements. They should not be tolerated even as relics from which life might appear to have departed; for they would not only be an evil heritage unworthy of our traditions and our goals; their revivification would always be an ugly possibility. They should be steadfastly opposed until they are eliminated. At the same time, we cannot condemn educational institutions or teachers for yielding to the constraint of laws embodying such requirements, even though we regard the laws containing them as pernicious.

5. Grounds of adverse action

...tion against a faculty member cannot rightly be

taken on grounds that limit his freedom as an individual, as a member of the academic community, or as a teacher and scholar. This principle was defined in the 1940 *Statement of Principles on Academic Freedom and Tenure*, adopted by the Association of American Colleges and the American Association of University Professors and approved since by other organizations. Implicit in that Statement is the proposition (rendered explicit in later reports of committees of the American Association of University Professors and resolutions of its Annual Meetings) that a faculty member's professional fitness to continue in his position, considered in the light of other relevant factors, is the question to be determined when his status as a teacher is challenged. No rule demanding removal for a specific reason not clearly determinative of professional fitness can validly be implemented by an institution, unless the rule is imposed by law or made necessary by the institution's particular religious coloration. Any rule which bases dismissal upon the mere fact of exercise of constitutional rights violates the principles of both academic freedom and academic tenure. By eliminating a decision by a faculty member's peers, it may also deny due process. This principle governs the question of dismissal for avowed past or present membership in the Communist Party taken by itself. Removal can be justified only on the ground, established by evidence, of unfitness to teach because of incompetence, lack of scholarly objectivity or integrity, serious misuse of the classroom or of academic prestige, gross personal misconduct, or conscious participation in conspiracy against the government. The same principle applies, *a fortiori*, to alleged involvement in Communist-inspired activities or views, and to refusal to take a trustee-imposed disclaimer oath.

6. Refusal to testify as ground for removal

It follows that the invocation of the Fifth Amendment by a faculty member under official investigation cannot be in itself a sufficient ground for removing him. The Amendment's protection is a constitutional privilege. The exercise of one's constitutional privilege against self-incrimination does not necessarily or commonly justify an inference of criminal guilt; and even if it were to be ruled otherwise it would not follow that the loss of an academic position should automatically result from a legal offense, whether proved in court or established by inference, without consideration of the relation of the offense to professional fitness. Invocation of the Fifth Amendment is to be weighed with an individual's other actions in passing a judgment on him. The same may be said with regard to refusals to testify on other grounds, such as the assertion of a right of silence thought to be conferred by the free-speech provision of the First Amendment, or because of a claim of lack of authority in the investigating body, an unwillingness to inform upon other persons, or a reluctance to cooperate in an investigation deemed oppressive or dangerous to the public interest.

7. Grounds for preliminary inquiry by an employing institution

The administrations of colleges and universities should, of course, take note of indications of the possible unfitness of faculty members. If a faculty member invokes the Fifth Amendment when questioned about Communism, or if there are other indications of past or present Communist associations or activities, his institution cannot ignore the possible significance for itself of these matters. There is then a possibility of his involvement in activities subversive of education itself, or otherwise indicative, to an important degree, of his unfitness to teach. As in other instances of possible unfitness, preliminary inquiry into this possibility is warranted and can become a duty. The aid of other faculty members may be sought in such an inquiry; but the inquiry should be confidential in so far as possible, and should not be substituted for the hearing to which the faculty member has a right if formal charges are brought against him. If, after consideration of a faculty member's whole career, as well as the circumstances surrounding his invocation of the Fifth Amendment, probable cause to believe that he may be unfit is not disclosed, the matter should end at this stage; but if probable cause for belief in his unfitness is shown, charges leading to a formal hearing should be brought.

8. Procedural due process in tenure cases

The principles of procedural due process contained in the 1940 Statement of Principles are as applicable to instances in which a faculty member's tenure is challenged by his institution or its officials on grounds related to loyalty, national security, or alleged connections with Communism, as they are to instances of challenge on other grounds. Whenever charges are made against a faculty member with a view to his removal, he has a right to a fair hearing, to a judgment by his academic peers before adverse action is taken, and to a decision based on the evidence. The principal elements of due process in such proceedings are set forth in the 1940 Statement of Principles, while other procedures, the need for which appears in some of the situations this committee has reviewed, are still to be specified.

There should be adequate faculty participation in any such proceedings, although no particular form of faculty participation or means to assure it is stipulated in the principles as now stated. It is an important safeguard that whatever procedure is used should be one that the faculty of the institution has itself endorsed prior to the occurrence of the case. It is desirable to have procedural matters vested in a standing committee chosen in advance to deal with matters of academic freedom and tenure; *ad hoc* committees may be subject to manipulation or to the suspicion of it. Faculty members should be willing to accept the difficult responsibility of serving on such committees and, when cases are presented, should accept the painful need to reach decisions. On occasion, problems have arisen because faculty committees have defaulted in their responsibility to render unequivocal advice to administrative officers and trustees.

Public hearings before committees with power to recommend or decide are not regarded as desirable. The accused faculty member should be permitted, however, to have persons of his choice present along with counsel;

and observers from legitimately interested outside groups, such as the American Association of University Professors, should also be permitted to attend. In accordance with established principles of justice, the burden of proof should rest upon the administrative officer bringing the charge, and should not be placed on the faculty member, whether he is being heard for invoking the Fifth Amendment or for other reasons. Because such hearings are not legal trials but are processes of a more informal sort, and the purpose is to establish clearly the fitness or unfitness of a particular person to teach, the introduction of new issues during the course of the hearings is not inconsistent with due process, provided sufficient opportunity to meet these issues is afforded. The decision should be based solely on evidence disclosed at the hearing.

9. The faculty member's obligation of disclosure

The fact that a faculty member has refused to disclose information to his own institution is relevant to the question of fitness to teach, but not decisive. If the refusal appears to be based upon evasiveness and a desire to withhold evidence of illegal conduct which would disqualify him as a member of the faculty, the refusal would be a weighty adverse factor. On the other hand, a refusal to answer questions which arises from a sincere belief that a teacher is entitled to withhold even from his own institution his political and social views should be accorded respect and should be weighed with other factors in the determination of his fitness to teach. Nevertheless, members of the teaching profession should recognize that sincerity cannot be judged objectively and that a college or university is entitled to know the facts with which it must deal. This is especially true when a faculty member's activities, whether or not they are blameworthy, have resulted in publicity hurtful to his institution. Accordingly, in any proper inquiry by his institution, it is the duty of a faculty member to disclose facts concerning himself that are of legitimate concern to the institution, namely, those that relate to his fitness as a teacher, as enumerated above in the sections, Grounds of Adverse Action, and Grounds for Preliminary Inquiry by an Employing Institution. This obligation diminishes if the institution has announced a rigid policy of dismissal in such a way as to prejudge the case.

We are aware that statements made by a faculty member to his institution are not legally privileged and that his interrogators may be compelled in a later official proceeding to testify that he made them. If such statements tend to incriminate him, he may in effect lose the protection of the Fifth Amendment. But we believe that the institution's right to know facts relevant to fitness to teach should prevail over this consideration.

10. Suspension

Suspension of a faculty member during the time of inquiry and decision by the institution is justified only in certain instances in which the reasons for proceeding render it highly probable not only that he is unfit to continue as a faculty member but that his unfitness is of a kind almost certain to prejudice his teaching or research. Even in such instances, the suspension should be with full salary. By his own desire the faculty member may, of course, be temporarily relieved of his duties in order to prepare his defense.

11. Faculty members not on tenure

Academic freedom should be accorded not only to faculty members with tenure but also, during the terms of their appointments, to others with probationary or temporary status who are engaged in teaching or research. Moreover, neither reappointment nor promotion to tenure status should be denied, nor any other adverse action taken, for reasons that violate academic freedom. Dismissal or other adverse action prior to the expiration of a term appointment requires the same procedures as does the dismissal of a faculty member with tenure; but no opportunity for a hearing is normally required in connection with failure to reappoint. If, however, there are reasonable grounds to believe that a nontenure staff member was denied reappointment for reasons that violate academic freedom, there should be a hearing before a faculty committee. In such a hearing the burden of proof is on the persons who assert that there were improper reasons for the failure to reappoint. If a *prima facie* case of violation of academic freedom is made, the administration of the institution is then required to come forward with evidence in rebuttal.

A Statement of the Committee on Academic Freedom and Tenure

Supplementary to the 1956 Report, "Academic Freedom and Tenure in the Quest for National Security"

Recent decisions of the United States Supreme Court, recognizing the validity of legally based assertions of the right to remain silent under a variety of circumstances, or declaring the invalidity of official action adverse to an individual because of his refusal to yield information about his possible Communist connections, go far to justify the position taken by the Association's Special Committee on these matters in its report, "Academic Freedom and Tenure in the Quest for National Security," which was published in the Spring, 1956, issue of the *AAUP Bulletin* and was approved by the Association's Council and Forty-second Annual Meeting. Some

of these involve situations closely analogous to academic dismissal proceedings.[1]

Several of the reports of investigating committees [not published here] deal with cases in which dismissed faculty members followed their refusals to answer questions before Congressional committees with refusals to make disclosures to representatives of their own institutions, when their previous conduct gave rise to questions. These cases may be visualized as falling into a spectrum extending from a complete refusal to discuss questions dealing with political or social views or associations, to the most complete willingness to answer all such questions even in a formal, open hearing. At one end of the spectrum, that of complete refusal to answer questions of this type on the claim of principle, is found the case of Professor Stanley Moore at Reed College. To this may be added the case of Professor Horace B. Davis at the University of Kansas City, already published in the *AAUP Bulletin* (April, 1957, Supplement) but not yet acted upon by the Association. Farther down the spectrum is the stand of Professor L. R. LaVallee at Dickinson College, who seems to have answered questions relating to previous political associations in certain private conferences but bluntly refused to answer similar questions in his hearing. Two cases fall near the middle of the spectrum. One is the case of Dr. H. Chandler Davis at the University of Michigan, who answered some questions relating to his integrity, but declined to answer questions directed toward his political views. The other is that of Associate Professor Edwin Berry Burgum, at New York University, who in his hearing denied any corrupting influence of his alleged Communist connections, any advocacy of violent overthrow of the government, or any dictation of his views by an outside source; but who nevertheless refused to answer certain other questions regarding his political views and activities, and in particular concerning his possible engagement in recruiting students into the Communist Party. Farther toward the end marked by compliance with questioning is the special case of Professor Alex B. Novikoff, at the University of Vermont. Professor Novikoff answered frankly all questions relating to the period dating from his appointment to the University, but he refused to discuss questions directed at certain associations alleged to have existed in earlier years. Yet ultimately he offered to answer even these questions if his testimony could be made off the record in private instead of public hearing, an offer which the board of hearing did not see fit to accept. Finally, at the extreme of the spectrum, is the case of Associate Professor Mark Nickerson, at the University of Michigan. Professor Nickerson undertook to answer all questions directed to him.

It may be further noted that in the case of Mr. Andries Deinum, at the University of Southern California, no opportunity at all was given him to answer questions or charges or to have a hearing. In the early case of Associate Professor Lyman Bradley, at New York University, there was, on the other hand, a hearing on charges, but refusal to answer, or lack of candor toward college authorities, did not become an issue. These cases may be regarded as extending the two ends of the spectrum into the invisible.

Each case mentioned here expresses the judgment of its authors upon the situation presented, when judged in the light of Association principles still undergoing refinement and application. Committee A has been charged with the function of elaborating those principles on the basis of further thought and of the experience reflected in these reports. It is first desirable to restate pertinent passages from the 1956 Report of the Special Committee, as follows:

> The administrations of colleges and universities should, of course, take note of indications of the possible unfitness of faculty members. If a faculty member invokes the Fifth Amendment when questioned about Communism, or if there are other indications of past or present Communist associations or activities, his institution cannot ignore the possible significance for itself of these matters. There is then a possibility of his involvement in activities subversive of education itself, or otherwise indicative, to an important degree, of his unfitness to teach. As in other instances of possible unfitness, preliminary inquiry into this possibility is warranted and can become a duty. The aid of other faculty members may be sought in such an inquiry; but the inquiry should be confidential in so far as possible, and should not be substituted for the hearing to which the faculty member has a right if formal charges are brought against him. If, after consideration of a faculty member's whole career, as well as the circumstances surrounding his invocation of the Fifth Amendment, probable cause to believe that he may be unfit is not disclosed, the matter should end at this stage; but if probable cause for belief in his unfitness is shown, charges leading to a formal hearing should be brought.
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> . . . [T]he invocation of the Fifth Amendment by a faculty member under official investigation cannot be in itself a sufficient ground for removing him. The Amendment's protection is a constitutional privilege. The exercise of one's constitutional privilege against self-incrimination does not necessarily or commonly justify an inference of criminal guilt; and even if it were to be ruled otherwise, it would not follow that the loss of an academic position should automatically result from a legal offense, whether proved in court or established by inference, without consideration of the relation of the offense to professional fitness. Invocation of the Fifth Amendment is to be weighed with an individual's other actions in passing a judgment on him. The same may be said with regard to refusals to testify on other grounds, such as the assertion of a right of silence thought to be conferred by the free-speech provision of the First Amendment, or because of a claim of lack of authority in the investigating body, an unwillingness to inform upon other persons, or a reluctance to cooperate in an investigation deemed oppressive or dangerous to the public interest.
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> The fact that a faculty member has refused to disclose information to his own institution is relevant to the question of fitness to teach, but not decisive. If the refusal appears to be based upon evasiveness and a desire to withhold evidence of illegal conduct which would disqualify him as a member of the faculty, the refusal would be a weighty adverse factor. On the other hand, a refusal to answer questions which arise from a sincere belief that a teacher is entitled to withhold even from his own institution his political and social views should be accorded respect and should be weighed with other factors in the determination of his fitness to teach. Nevertheless, members of the teaching profession should recognize that sincerity cannot be judged objectively and that a college or university is entitled to know the facts with which it must deal. This is especially true when a faculty member's activities, whether or not they are blameworthy, have

[1] See, in particular, *Slochower* v. *Board of Higher Education*, 350 U.S. 551 (1956); *Watkins* v. *United States*, 354 U.S. 178 (1957); *Sweezy* v. *State of New Hampshire*, 354 U.S. 234 (1957); *Konigsberg* v. *State Bar of California*, 353 U.S. 252 (1957).

resulted in publicity hurtful to his institution. Accordingly, in any proper inquiry by his institution, it is the duty of a faculty member to disclose facts concerning himself that are of legitimate concern to the institution. . . . This obligation diminishes if the institution has announced a rigid policy of dismissal in such a way as to prejudge the case.

We are aware that statements made by a faculty member to his institution are not legally privileged and that his interrogators may be compelled in a later official proceeding to testify that he made them. If such statements tend to incriminate him, he may in effect lose the protection of the Fifth Amendment. But we believe that the institution's right to know facts relevant to fitness to teach should prevail over this consideration.

. . . Removal can be justified only on the ground, established by evidence, of unfitness to teach because of incompetence, lack of scholarly objectivity or integrity, serious misuse of the classroom or of academic prestige, gross personal misconduct, or conscious participation in conspiracy against the government. The same principle applies, *a fortiori*, to alleged involvement in Communist-inspired activities or views.

The most urgent need for elaboration of the principles enunciated in 1956 concerns the relative weight that may properly, in the context of all other pertinent considerations, be given, in reaching a final decision, to the reasons for the faculty member's continued refusal to make disclosures to his own institution. As the 1956 report recognizes, such refusal, in itself, may not be discreditable to the faculty member if it is based on honest adherence to principle—for example, a principle of freedom, or belief in the right of privacy—even if others disagree with his view. This is true even where such silence may follow a refusal on Fifth Amendment or other grounds to testify before a Congressional committee or other governmental agency. On the other hand, the faculty member's continued silence may reflect unfavorably upon him if his purpose is to conceal derogatory information he knows to be pertinent to the question of fitness.

The assertion by a faculty member of the right to withhold from his institution information which is pertinent to his fitness casts upon him the burden of explaining his refusal. Following such an explanation, the responsible tribunal or authorities may find it necessary to determine, as one element in gauging his fitness to continue as a teacher, what his actual reasons for silence are, even though this will not always be an easy determination to make.

Even if the tribunal finds that the faculty member's reasons for silence are discreditable to him, this adverse factor must be judged in the context of all the other available evidence as to his professional fitness, for here, as in all other aspects of dismissal proceedings, the deciding tribunal or authority is always under a duty to reach a just conclusion in the light of the faculty member's full record. The tribunal also has an obligation to state the reasoning that lies back of its decision in a manner that will show the considerations that have affected the decision and how they have been balanced. On his part, the faculty member who persists in silence within his own institution must remember that, although the burden of proof rests on those who are bringing charges against him, his withholding of information sought by his institution may well leave unchallenged other evidence tending to show him unfit. To put it somewhat differently, the institution may properly concern itself with the facts falling within the area of the teacher's silence as they bear upon the issue of his fitness and arrive at a judgment concerning them.

The faculty member may find himself facing another dilemma. He may run the risk of losing the protection of the Fifth Amendment if he answers questions in a public hearing and on the record, or, conversely, of being misjudged if he remains silent. If, in such straits, he offers to answer privately, and off the record, questions he has previously refused to answer, the tribunal should either accept the offer or recognize that the offer is in itself some evidence of candor and sincerity on the part of the teacher. Such private, off-the-record testimony would not, in this committee's judgment, violate the requirement of the 1940 *Statement of Principles on Academic Freedom and Tenure* that "There should be a full stenographic record of the hearing available to the parties concerned." It is well to remember that a dismissal proceeding is not bound by strict legal rules, and that the aim of the tribunal is to arrive, by all fair means, at the fullest truth relevant to the charges. Off-the-record testimony is properly regarded with suspicion and therefore generally forbidden in academic dismissal proceedings, particularly for witnesses testifying against the accused faculty member. But its limited use for good cause by the faculty member, who enjoys the benefit of the doubt in the proceedings and on whom the duty of candor is being urged, may well enable the tribunal to reach a fair and just decision. In explaining its decision, it may, of course, draw inferences, whether favorable or unfavorable, from such off-the-record testimony, even though the testimony itself may not be disclosed.

If the tribunal refuses to accept an honorable reason offered by a faculty member in justification of his nondisclosure, there being no rational basis in the record for this refusal, and he is then dismissed solely because of this silence, the action is censurable because a sufficient ground for dismissal has not been established. If, on the other hand, a decision to dismiss is found to have been reached fairly and to be supportable on the record when judged by the foregoing considerations, the Association is not entitled to dispute it.

Further comment should be made concerning the statement in the 1956 Report that the "obligation [of a faculty member to disclose facts concerning himself that are of legitimate concern to his institution] diminishes if the institution has announced a rigid policy of dismissal in such a way as to prejudge the case." The objection here is not to the fact that an institution may wish to enumerate in a general statement justifiable grounds for the removal of members of its faculty, such as those found in the 1956 Report of the Special Committee, for it is often desirable that conduct deemed to be improper should be defined in advance. Where, however, a rigid policy, in effect predetermining the question of fitness, is based on inadequate grounds, such as invocation of the Fifth Amendment or the simple fact of membership in an organization, the faculty member may be justified in refusing to become party to an intramural form of self-incrimination.

Report of the Special Committee on Academic Personnel Ineligible for Tenure

The report which follows was approved by the Association's Committee A on Academic Freedom and Tenure in October, 1969.

Preamble

The Special Committee considered problems with regard to nontenure positions particularly as they concern three categories of academic people: (1) part-time teachers, (2) full-time teachers who are not considered regular members of faculties, and (3) persons who are appointed to full-time research positions. The Special Committee's first effort has been to survey and analyze the policies and practices of reputable universities with regard to nontenure positions, reports of which were previously made to the Council and Committee A. Its second concern has been to examine these practices in relation to the 1940 *Statement of Principles on Academic Freedom and Tenure* of the Association of American Colleges and the American Association of University Professors. Its third and final effort has been to formulate an interpretation of the 1940 Statement that might serve to guide the Association in advising interested persons about problems and disputes involving nontenure appointments.

The Special Committee soon concluded that the 1940 Statement could not be interpreted as guaranteeing tenure rights to part-time teachers. Its provisions for a probationary period apply explicitly to ". . . appointment to the rank of full-time instructor or higher rank." The Special Committee feels, however, that the Association should continue to be actively concerned with cases belonging to this category, and should use its influence to persuade institutions to adopt and use suitable grievance procedures so that disputes involving part-time teachers can be judiciously resolved within the institutions. Where such procedures are inadequate or lacking, the Association should vigorously uphold the right of part-time teachers to the same academic freedom that teachers with tenure have. This policy should of course apply equally to full-time teachers during their probation period.

There has been much discussion by the Special Committee, as there has been among other organs of the Association, of the question whether the increasing use of people without doctors' degrees as full-time teachers calls for clarification of the probationary requirements set forth by the 1940 Statement. That is, does an educational institution have to count years of full-time service accumulated by a tenure candidate before he has received his doctorate in determining when the decision to grant or not grant tenure must be made? Or, conversely, is it legitimate for an institution to appoint a doctoral candidate as a full-time teacher, in a rank below, or different from, that of instructor, and consider that his term of probation for tenure begins only if and when he receives the doctorate? The 1940 Statement, whether intentionally or not, appears to leave room for the second interpretation by saying that the probationary period should begin with appointment at the rank of instructor or a higher rank. It does not, however, say at what rank a full-time teacher with the doctorate must be appointed. After full discussion, the Special Committee is unanimously agreed that the first interpretation should be Association policy; that is, any person whom an institution appoints to a full-time teaching position should be treated as a candidate for tenure under the requirements of the 1940 Statement, no matter what rank or title he may be given by the institution. If an institution wants to exclude a doctoral candidate (or any other person whom it considers inadequately qualified for regular faculty membership and status) from tenure candidacy, it should not appoint him as a full-time teacher. The Special Committee believes that less injustice will be done, both to teachers and to institutions, if this policy is enforced than if the apparent loophole is left open. A serious doctoral candidate ought not to do full-time teaching anyhow; it is not in his interest or that of the institution to have his attainment of the degree delayed or prevented by overwork. Nor are academic salaries any longer so low, or financial support in the form of fellowships and loans so difficult to attain, that a serious

doctoral candidate cannot survive a few years on part-time pay. The Special Committee feels particularly strongly that an institution which is unable to recruit enough doctors to fill all its full-time teaching positions ought not to deny tenure to full-time teachers lacking doctors' degrees.[1] Institutions should do all they can to increase the number of qualified te hers. The Special Committee believes that anyone who does an instructor's work should be given appropriate rank and privileges. In short, the Special Committee wishes to eliminate the second problem category by refusing to grant that, for purposes of the 1940 Statement, there is any such thing as a full-time teacher at a rank below that of instructor.

The third problem category, that of research people who are not teachers, is relatively new to higher education. It was not foreseen, and its full effect on the regulation and conduct of academic institutions is not yet foreseeable. In particular, it seems clear to the Special Committee that the two associations had no major category of such academic people in mind when they formulated the 1940 Statement. A question may be, therefore, whether it is possible for the Special Committee to apply the 1940 Statement to this category. Its deliberations may in fact have led to another question: does the 1940 Statement itself need some revision, amendment, or supplement in order to provide proper guidance for Association policy in this area? The 1940 Statement plainly assumes that the normal basic activity of university professors is teaching and that research is a functionally related activity by means of which teaching is enriched and extended. On this assumption it is entirely reasonable and proper to maintain, as the 1940 Statement evidently does, that a researcher is the same thing as a teacher insofar as his right to academic freedom, his status as a faculty member, and his entitlement to tenure are concerned. In 1940, with negligible exceptions, researchers in universities were teachers, part of whose teaching was by word of mouth and part by the medium of print. The two parts served the same purpose of transmitting the teacher's individual ideas into the arena of public discussion, and the same principles of freedom and of responsibility applied to both.

Now, however, there are an important number of researchers working in universities and university-operated agencies to whom this assumption does not so clearly apply. Workers on Department of Defense and Atomic Energy Commission projects offer the extreme example; but anyone who works on a project which is defined by a contract between the employing institution and a sponsoring agency, government, industry, or foundation is likely to be more or less limited in his freedom to decide for himself what line of investigation he will pursue. The question arises whether universities ought to be engaged in this kind of contract research at all. The Special Committee regards this as an important question, but not one that can be settled at this time by a component of the AAUP. The fact is that many of the best universities are so engaged, and the question to be answered is what the AAUP policy should be toward the people involved, particularly concerning the conditions of academic freedom and tenure under which they work.

The Special Committee recognizes that many and perhaps most of the researchers doing contract work are qualified by education and training to be members of teaching faculties. What makes them different is their function. A related consideration, which administrators are quick to point out, is that the shifting character of the financial support for contract work imposes a special problem in relation to tenure. It is not so much a matter of the total amount of money available as it is of the fact that individual research contracts run for limited terms, and that researchers are not always transferable from one contract project to another within the same institution. Administratively, the logical solution is to let the individual researcher's contract run for not longer than the term of the project contract. The situation is roughly parallel to that which arises when an institution decides to discontinue a course or department or college. The AAUP recognizes that legitimate academic reasons may require such a change, and that it is not always possible for the institution to retain all the people whose positions are eliminated. Such a situation, rare in teaching faculties, is normal and frequent in contract research.

These problems are closely related to the fact that many research projects are carried out by teams of researchers under the supervision of project directors. The director of a project, often a faculty member with tenure, and very often a kind of entrepreneur in proposing the project and attracting financial support for it from sources outside the institution, has a legitimate need for freedom in the selection and rejection of team members, and for adequate authority to assign their tasks and coordinate their activities. Furthermore, individual team members are not free to publish results of work they have done on the project without the consent of other members and especially of the director. For these reasons, traditional concepts of academic freedom and tenure do not apply to the activities of contract research teams. The Special Committee has gone as far as it believes possible, under the circumstances, in asserting and defending in the statement which follows such academic freedom and job security as can be had. Its members feel that an effort to go beyond the limits imposed by the facts of the situation would make the statement weaker, not stronger.

The Special Committee is by no means indifferent to the conditions under which members of contract research project teams have to work, nor does it advocate indifference on the part of the AAUP. It believes that good administrative and personnel policies ought to operate in this area as in all other areas of academic life, and that the AAUP should try to define good policies and encourage institutions to apply them. It also believes that, whenever academic institutions designate full-time researchers as faculty members, either by formal appoint-

[1] Three sentences, which appeared here in the original report of the Special Committee and alluded to employment conditions then current, are omitted as being no longer applicable.

ment or by conferring the titles of instructor, assistant or associate professor, or professor, those researchers should have all the rights of other faculty members, and that the AAUP should apply the 1940 Statement of Principles to them as strictly as to anyone else.

Statement of the Special Committee on Academic Personnel Ineligible for Tenure

A clear definition of acceptable academic practice in American colleges and universities requires some amplification and interpretation of the 1940 *Statement of Principles on Academic Freedom and Tenure*. Most of the 1940 Statement applies without change to the operation of the universities today. The academic freedom statement however leaves some question about the freedom of research for the secondary staff of large research projects restricted by government or industrial support and security. The academic tenure provisions leave some doubt about the tenure rights of part-time teachers and of persons appointed with titles other than those of the four ranks of instructor to professor.

To make quite clear that the policy of the Association provides protection in matters of academic freedom to all teachers at all ranks and on any fractional appointment and to all investigators with university appointments, the following amplifying statement is proposed:

(1) The academic freedom of all teachers and investigators with full-time or part-time appointments in a university should have the full protection of the Association.

The committee recognizes that it is appropriate to have, within the university, faculty members with instructor or professional status who are exclusively investigators. These professors should be selected by the faculty and should have the full privileges of other professors. The following statement is within the 1940 Statement but more directly describes the status of the research faculty member with an academic appointment:

(2) Full-time teachers and investigators who are appointed to the rank of Instructor, Assistant Professor, Associate Professor, and Professor should have the rights and privileges appropriate to their rank including tenure or the eligibility for tenure after the appropriate probationary period.

Acceptable academic practice for tenure is described in the 1940 Statement of Principles only for full-time appointments beginning with the rank of instructor. The Special Committee recommends that these provisions be extended to include all full-time teacher appointments in the university. Part-time appointments are often given to scholars who are still working on their advanced degree programs. If, however, a full-time appointment can be made as a lecturer or acting instructor, without obligating the institution to a limited probation period, it will diminish the protection of the Association's statement of policy on tenure. To provide for protection of the young teachers' tenure rights, the committee proposes:

(3) All full-time teachers, but not investigators, in the universities regardless of their titles should acquire tenure after a probationary period as provided for appointments to the rank of full-time instructor or a higher rank in the 1940 Statement.

The Association extends the full protection of academic freedom to all teachers and investigators on full-time or part-time university appointments. The policy for the tenure of investigators with full-time university appointments without one of the usual academic ranks has not been adequately determined. In the science and technology areas of the twenty largest universities, there are now twice as many full-time investigators as full-time academic appointments. Most of these investigator appointments are made from research grants of short duration that are subject to frequent and uncertain renewal. The selection and termination of appointees is made by the project director without the usual procedures of review involved in departmental academic appointments. Until the funds for the support of investigators are assured for substantial periods and until the university determines policies for the distribution and use of these funds it will be difficult for the university to assume the obligation for continuous tenure appointments. The committee makes no recommendation for a tenure policy for investigators who do not have regular academic appointments.

Report on Retirement and Academic Freedom

This report was prepared by a subcommittee of Committee A. Its publication was authorized by Committee A and the Council in October, 1968.

An earlier Statement of Principles on Academic Retirement, endorsed jointly in 1958 by the American Association of University Professors and the Association of American Colleges,[1] contains recommendations on retirement policy and on plans for retirement annuities. It calls for "a fixed and relatively late retirement age, the same for teachers and administrators," and it states that "in the present circumstances the desirable fixed retirement age would appear to be from 67 to 70."

However, a recent survey by the American Association of University Professors of practices regarding retirement shows that academic institutions currently tend to follow two different patterns. At some institutions there is a fixed age for retirement, with the professor retired prior to that age only by his own choice or by permanently incapacitating illness. The usual retirement ages are found to be 65, 68, or 70 years. The American Association of University Professors continues to support the concept of a fixed and relatively late retirement age.

At other institutions the pattern is flexible, with a relatively early age at which tenure ceases (frequently 65 years), with the possibility of reappointment for limited periods, often on an annual basis. At these institutions there are possible threats to the academic freedom of faculty members who are approaching retirement age or who have been reappointed after reaching that age.

Many professors desire to remain in active service at their institutions as long as possible. Definite financial advantages accompany later retirement. Frequently, there is strong reluctance to sever one's professional contacts until the latest possible age.

In institutions with a flexible retirement age at which decisions on retirement are made by administrators, a professor who wishes to continue his academic work beyond the minimum retirement age may hesitate to express opinions contrary to administrative policy, to defend an outspoken colleague, or otherwise to take positions contrary to those who have the power to retire him. The occasional victimization of a bold professor would give reality to this fear. Also, self-restriction of freedom may result from the possibility of nonreappointment. In contrast, where there is a fixed retirement age, with no possibility of deviation, the professor is not normally subject to penalty, no matter how critical he may be of institutional policy or how much outside influence for his nonreappointment is brought to bear on the institution.

The number of people who suffer from the threat of nonreappointment may not be large. As people become older, some become more outspoken in the defense of debatable ideas; others, recognizing the validity of arguments on both sides of a question, see less need to champion locally unpopular causes. However, freedom for the entire academic community, including its older members, must be scrupulously preserved.

At the present time, a shortage of qualified faculty would usually cause an institution to wish to retain faculty members as long as possible. However, employment conditions at a given institution may change. Also, with the increased need for faculty, more professors who have reached the minimum retirement age are being employed, either by their own or other institutions. Therefore, the number of instances of possible infringement of academic freedom of professors who are no longer protected by tenure may increase.

At institutions which have flexible retirement ages, what safeguards are or should be available to faculty during the period in which tenure no longer protects the academic freedom and procedural safeguards of the professor as teacher, scholar, and citizen? The approach

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[1] The text of this Statement was published in the *AAUP Bulletin*, Summer, 1958, pp. 513-5. A joint committee of AAUP and the Association of American Colleges later prepared a revision of the Statement, which was adopted by the AAUP Council and endorsed by the Fifty-fifth Annual Meeting in 1969 as Association policy, under the title, "Statement of Principles on Academic Retirement and Insurance Plans." (See *AAUP Bulletin*, Autumn, 1969, pp. 386-387.)

used by the 1940 *Statement of Principles on Academic Freedom and Tenure* for instructional staff who have not yet achieved tenure gives applicable guidance. "During the probationary period a teacher should have the academic freedom that all other members of the faculty have." Like the probationary teacher, the faculty member who has lost tenure because of age should have available to him appropriate hearing procedures if he can present a *prima facie* case of not being reappointed for reasons violative of his academic freedom. Like the probationary appointee, this faculty member should receive explicit and timely notice of nonreappointment: not later than December 15 (or at least six months prior to the expiration of the appointment); or, if the faculty member is in his first year of service at an institution other than the one at which he had tenure, not later than March 1 (or at least three months prior to the appointment's expiration). Where there is a strong tradition of academic freedom and good practice, the problem of involuntary retirement of outspoken professors before the maximum retirement age does not exist.

The surest protection against premature retirement as a penalty for expressing criticism or dissent is active participation by the faculty in the governance of the institution. Decisions not to continue the services of a professor to the maximum permissible age should be made only after the appropriate administrative officer has received the advice of representatives of the faculty and should be subject to appeal to the proper body or committee of the faculty. Details of the procedure, together with a statement of the reasons which would occasion a professor's retirement before the stated maximum age, should be clearly promulgated in writing and available to the professor at the time of his appointment.

Faculty participation in decisions to employ professors beyond the minimum retirement age occurs at a considerable number of institutions. Among the flexible systems worth noting are those at the University of California at Berkeley, Franklin and Marshall College, Beloit College, and the University of Texas. These institutions represent two large state-supported institutions and two small privately endowed liberal arts colleges.

The Committee on Budget and Interdepartmental Relations of the University of California at Berkeley[2]—in addition to its responsibility for making recommendations to the appropriate administrative official concerning appointment, promotions and awards of tenure—recommends the reappointment or nonreappointment of professors who have reached the minimum retirement age. Its recommendation is based on that of the Department Chairman, including a statement concerning the clearly established need for the continuance of the professor's services, and its own careful and independent evaluation of the desirability of the reappointment of the professor. Since the recommendations of this committee are usually followed by the administration, retired professors know that their reappointment depends primarily upon broad faculty judgment. As the primary decision for reappointment is made by faculty rather than administrative officials, a professor who wishes to criticize administrative policy can do so without fear it will be prejudicial to his reappointment.

The regulations of Franklin and Marshall College state that "the mandatory retirement age for members of the Faculty is 65," but provision is made for the appointment "of Visiting Professors or Distinguished Professors Emeriti who exceed age 65." The decision to recommend the appointment of an emeritus professor is made by the department and reviewed by a faculty-elected Professional Standards Committee. Selection is based on an established need and on the academic qualifications of the individual. Espousal of minority viewpoints would not be prejudicial to appointment after formal retirement.

At Beloit College, a faculty-nominated and elected committee advises with the President and Dean on all personnel decisions including retention of faculty, promotion, and tenure. The College's Policy Manual also calls for consultation with the Chairman of the Department and Division of which the individual is a member. Although retirement occurs at 65, a faculty member may be reemployed on an annual basis, if reemployment is mutually agreeable to the individual and to the college. Such reemployment, which ordinarily does not include administrative and committee responsibilities, is considered by the faculty committee and chief administrative officers.

A somewhat different approach to the utilization of retired professors is used at The University of Texas at Austin. Tenured members of the faculty continue full time until age 70. At this age they are put on "modified service" which is half-time work for half-time pay; they may be allowed to teach required courses at the discretion of the teaching staff of the department. The budget council of each department must approve annually appointees on modified service as being capable of the duties assigned to them by the Chairman of the Department, and all departmental recommendations for appointment, or continued appointment, are subject to approval by a faculty advisory committee on extended service.

Whatever circumstances and conditions affecting retirement are present in an institution of higher education, professors should be assured that, even if tenure is ended, the principles of academic freedom, as stated in the 1940 *Statement of Principles,* are applicable to them.

[2] The work of this committee and the selection of its members by a faculty-elected Committee on Committees are described by L. W. Eley, "The University of California at Berkeley: Faculty Participation in the Government of the University," *AAUP Bulletin,* Spring, 1964, pp. 5-13.

American Association of University Professors

American Council on Education

Association of Governing Boards of Universities and Colleges

Statement on
Government of Colleges and Universities

Editorial Note. The Statement which follows is directed to governing board members, administrators, faculty members, students, and other persons in the belief that the colleges and universities of the United States have reached a stage calling for appropriately shared responsibility and cooperative action among the components of the academic institution. The Statement is intended to foster constructive joint thought and action, both within the institutional structure and in protection of its integrity against improper intrusions.

It is not intended that the Statement serve as a blueprint for government on a specific campus or as a manual for the regulation of controversy among the components of an academic institution, although it is to be hoped that the principles asserted will lead to the correction of existing weaknesses and assist in the establishment of sound structure and procedures. The Statement does not attempt to cover relations with those outside agencies which increasingly are controlling the resources and influencing the patterns of education in our institutions of higher learning; e.g., the United States Government, the state legislatures, state commissions, interstate associations or compacts and other interinstitutional arrangements. However it is hoped that the Statement will be helpful to these agencies in their consideration of educational matters.

Students are referred to in this Statement as an institutional component coordinate in importance with trustees, administrators, and faculty. There is, however, no main section on students. The omission has two causes: (1) the changes now occurring in the status of American students have plainly outdistanced the analysis by the educational community, and an attempt to define the situation without thorough study might prove unfair to student interests, and (2) students do not in fact presently have a significant voice in the government of colleges and universities; it would be unseemly to obscure, by superficial equality of length of statement, what may be a serious lag entitled to separate and full confrontation. The concern for student status felt by the organizations issuing this Statement is embodied in a note "On Student Status" intended to stimulate the educational community to turn its attention to an important need.

This Statement, in preparation since 1964, is jointly formulated by the American Association of University Professors, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. On October 12, 1966, the Board of Directors of the ACE took action by which the Council "recognizes the Statement as a significant step forward in the clarification of the respective roles of governing boards, faculties, and administrations," and "commends it to the institutions which are members of the Council." On October 29, 1966, the Council of the AAUP approved the Statement, recommended approval by the Fifty-third Annual Meeting in April, 1967,[1] and recognized that "continuing joint effort is desirable, in view of the areas left open in the jointly formulated Statement, and the dynamic changes occurring in higher education." On November 18, 1966, the Executive Committee of the AGB took action by which that organization also "recognizes the Statement as a significant step forward in the clarification of the respective roles of governing boards, faculties and administrations," and "commends it to the governing boards which are members of the Association."

[1]The Annual Meeting approved the Statement.

I. Introduction

This Statement is a call to mutual understanding regarding the government of colleges and universities. Understanding, based on community of interest, and producing joint effort, is essential for at least three reasons. First, the academic institution, public or private, often has become less autonomous; buildings, research, and student tuition are supported by funds over which the college or university exercises a diminishing control. Legislative and executive governmental authority, at all levels, plays a part in the making of important decisions in academic policy. If these voices and forces are to be successfully heard and integrated, the academic institution must be in a position to meet them with its own generally unified view. Second, regard for the welfare of the institution remains important despite the mobility and interchange of scholars. Third, a college or university in which all the components are aware of the interdependence, of the usefulness of communication among themselves, and of the force of joint action will enjoy increased capacity to solve educational problems.

II. The Academic Institution: Joint Effort

A. Preliminary Considerations

The variety and complexity of the tasks performed by institutions of higher education produce an inescapable interdependence among governing board, administration, faculty, students, and others. The relationship calls for adequate communication among these components, and full opportunity for appropriate joint planning and effort.

Joint effort in an academic institution will take a variety of forms appropriate to the kinds of situations encountered. In some instances, an initial exploration or recommendation will be made by the president with consideration by the faculty at a later stage; in other instances, a first and essentially definitive recommendation will be made by the faculty, subject to the endorsement of the president and the governing board. In still others, a substantive contribution can be made when student leaders are responsibly involved in the process. Although the variety of such approaches may be wide, at least two general conclusions regarding joint effort seem clearly warranted: (1) important areas of action involve at one time or another the initiating capacity and decision-making participation of all the institutional components, and (2) differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand, as developed hereinafter.

B. Determination of General Educational Policy

The general educational policy, i.e., the objectives of an institution and the nature, range, and pace of its efforts, is shaped by the institutional charter or by law, by tradition and historical development, by the present needs of the community of the institution, and by the professional aspirations and standards of those directly involved in its work. Every board will wish to go beyond its formal trustee obligation to conserve the accomplishment of the past and to engage seriously with the future; every faculty will seek to conduct an operation worthy of scholarly standards of learning; every administrative officer will strive to meet his charge and to attain the goals of the institution. The interests of all are coordinate and related, and unilateral effort can lead to confusion or conflict. Essential to a solution is a reasonably explicit statement on general educational policy. Operating responsibility and authority, and procedures for continuing review, should be clearly defined in official regulations.

When an educational goal has been established, it becomes the responsibility primarily of the faculty to determine appropriate curriculum and procedures of student instruction.

Special considerations may require particular accommodations: (1) a publicly supported institution may be regulated by statutory provisions, and (2) a church-controlled institution may be limited by its charter or bylaws. When such external requirements influence course content and manner of instruction or research, they impair the educational effectiveness of the institution.

Such matters as major changes in the size or composition of the student body and the relative emphasis to be given to the various elements of the educational and research program should involve participation of governing board, administration, and faculty prior to final decision.

C. Internal Operations of the Institution

The framing and execution of long-range plans, one of the most important aspects of institutional responsibility, should be a central and continuing concern in the academic community.

Effective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or university. The channels of communication should be established and maintained by joint endeavor. Distinction should be observed between the institutional system of communication and the system of responsibility for the making of decisions.

A second area calling for joint effort in internal operations is that of decisions regarding existing or prospective physical resources. The board, president, and faculty should all seek agreement on basic decisions regarding buildings and other facilities to be used in the educational work of the institution.

A third area is budgeting. The allocation of resources among competing demands is central in the formal responsibility of the governing board, in the administrative authority of the president, and in the educational function of the faculty. Each component should therefore have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections. The function of each component in budgetary matters should be understood by all; the allo-

cation of authority will determine the flow of information and the scope of participation in decisions.

Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon cooperative search by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. The president should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty. His dual role requires that he be able to interpret to board and faculty the educational views and concepts of institutional government of the other. He should have the confidence of the board and the faculty.

The selection of academic deans and other chief academic officers should be the responsibility of the president with the advice of and in consultation with the appropriate faculty.

Determinations of faculty status, normally based on the recommendations of the faculty groups involved, are discussed in Part V of this Statement; but it should here be noted that the building of a strong faculty requires careful joint effort in such actions as staff selection and promotion and the granting of tenure. Joint action should also govern dismissals; the applicable principles and procedures in these matters are well established.[2]

D. External Relations of the Institution

Anyone—a member of the governing board, the president or other member of the administration, a member of the faculty, or a member of the student body or the alumni—affects the institution when he speaks of it in public. An individual who speaks unofficially should so indicate. An official spokesman for the institution, the board, the administration, the faculty, or the student body should be guided by established policy.

It should be noted that only the board speaks legally for the whole institution, although it may delegate responsibility to an agent.

The right of a board member, an administrative officer, a faculty member, or a student to speak on general educational questions or about the administration and operations of his own institution is a part of his right as a citizen and should not be abridged by the institution.[3] There exist, of course, legal bounds relating to defamation of character, and there are questions of propriety.

III. The Academic Institution: The Governing Board

The governing board has a special obligation to assure that the history of the college or university shall serve as a prelude and inspiration to the future. The board helps relate the institution to its chief community: e.g., the community college to serve the educational needs of a defined population area or group, the church-controlled college to be cognizant of the announced position of its denomination, and the comprehensive university to discharge the many duties and to accept the appropriate new challenges which are its concern at the several levels of higher education.

The governing board of an institution of higher education in the United States operates, with few exceptions, as the final institutional authority. Private institutions are established by charters; public institutions are established by constitutional or statutory provisions. In private institutions the board is frequently self-perpetuating; in public colleges and universities the present membership of a board may be asked to suggest candidates for appointment. As a whole and individually when the governing board confronts the problem of succession, serious attention should be given to obtaining properly qualified persons. Where public law calls for election of governing board members, means should be found to insure the nomination of fully suited persons, and the electorate should be informed of the relevant criteria for board membership.

Since the membership of the board may embrace both individual and collective competence of recognized weight, its advice or help may be sought through established channels by other components of the academic community. The governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of administration to the administrative officers, the president and the deans, and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation.

One of the governing board's important tasks is to insure the publication of codified statements that define the over-all policies and procedures of the institution under its jurisdiction.

The board plays a central role in relating the likely needs of the future to predictable resources; it has the responsibility for husbanding the endowment; it is responsible for obtaining needed capital and operating funds; and in the broadest sense of the term it should pay attention to personnel policy. In order to fulfill these duties, the board should be aided by, and may insist upon, the development of long-range planning by the administration and faculty.

When ignorance or ill-will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the

[2] See the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*. These statements have been jointly approved or adopted by the Association of American Colleges and the American Association of University Professors; the 1940 Statement has been endorsed by numerous learned and scientific societies and educational associations.

[3] With respect to faculty members, the 1940 *Statement of Principles on Academic Freedom and Tenure* reads: "The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinion of others, and should make every effort to indicate that he is not an institutional spokesman."

student body, the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.[4]

IV. The Academic Institution: The President

The president, as the chief executive officer of an institution of higher education, is measured largely by his capacity for institutional leadership. He shares responsibility for the definition and attainment of goals, for administrative action, and for operating the communications system which links the components of the academic community. He represents his institution to its many publics. His leadership role is supported by delegated authority from the board and faculty.

As the chief planning officer of an institution, the president has a special obligation to innovate and initiate. The degree to which a president can envision new horizons for his institution, and can persuade others to see them and to work toward them, will often constitute the chief measure of his administration.

The president must at times, with or without support, infuse new life into a department; relatedly, he may at times be required, working within the concept of tenure, to solve problems of obsolescence. The president will necessarily utilize the judgments of the faculty, but in the interest of academic standards he may also seek outside evaluations by scholars of acknowledged competence.

It is the duty of the president to see to it that the standards and procedures in operational use within the college or university conform to the policy established by the governing board and to the standards of sound academic practice. It is also incumbent on the president to insure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly the faculty should be informed of the views of the board and the administration on like issues.

The president is largely responsible for the maintenance of existing institutional resources and the creation of new resources; he has ultimate managerial responsibility for a large area of nonacademic activities, he is responsible for public understanding, and by the nature of his office is the chief spokesman of his institution. In these and other areas his work is to plan, to organize, to direct, and to represent. The presidential function should receive the general support of board and faculty.

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[4] The American Association of University Professors, recognizing the growth of autonomous state-wide bodies superordinate to existing Boards of Trustees, regards the objectives and practices recommended in the 1966 *Statement* as constituting equally appropriate guidelines for such bodies. As newer, and more influential components of the academic community, they bear particular responsibility for protecting the autonomy of individual institutions under their jurisdiction and for implementing policies of shared responsibility as outlined in Section II when they displace functions of institutional governing boards. (Adopted by the AAUP Council in May, 1972.)

V. The Academic Institution: The Faculty

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board. Budgets, manpower limitations, the time element, and the policies of other groups, bodies and agencies having jurisdiction over the institution may set limits to realization of faculty advice.

The faculty sets the requirements for the degrees offered in course, determines when the requirements have been met, and authorizes the president and board to grant the degrees thus achieved.

Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues; in such competence it is implicit that responsibility exists for both adverse and favorable judgments. Likewise there is the more general competence of experienced faculty personnel committees having a broader charge. Determinations in these matters should first be by faculty action through established procedures, reviewed by the chief academic officers with the concurrence of the board. The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.

The faculty should actively participate in the determination of policies and procedures governing salary increases.

The chairman or head of a department, who serves as the chief representative of his department within an institution, should be selected either by departmental election or by appointment following consultation with members of the department and of related departments; appointments should normally be in conformity with department members' judgment. The chairman or department head should not have tenure in his office; his tenure as a faculty member is a matter of separate right. He should serve for a stated term but without prejudice to re-election or to reappointment by procedures which involve appropriate faculty consultation. Board, administration, and faculty should all bear in mind that the department chairman has a special obligation to build a department strong in scholarship and teaching capacity.

Agencies for faculty participation in the government

of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.

The agencies may consist of meetings of all faculty members of a department, school, college, division, or university system, or may take the form of faculty-elected executive committees in departments and schools and a faculty-elected senate or council for larger divisions or the institution as a whole.

Among the means of communication among the faculty, administration, and governing board now in use are: (1) circulation of memoranda and reports by board committees, the administration, and faculty committees, (2) joint *ad hoc* committees, (3) standing liaison committees, (4) membership of faculty members on administrative bodies, and (5) membership of faculty members on governing boards. Whatever the channels of communication, they should be clearly understood and observed.

On Student Status

When students in American colleges and universities desire to participate responsibly in the government of the institution they attend, their wish should be recognized as a claim to opportunity both for educational experience and for involvement in the affairs of their college or university. Ways should be found to permit significant student participation within the limits of attainable effectiveness. The obstacles to such participation are large and should not be minimized: inexperience, untested capacity, a transitory status which means that present action does not carry with it subsequent responsibility, and the inescapable fact that the other components of the institution are in a position of judgment over the students. It is important to recognize that student needs are strongly related to educational experience, both formal and informal. Students expect, and have a right to expect, that the educational process will be structured, that they will be stimulated by it to become independent adults, and that they will have effectively transmitted to them the cultural heritage of the larger society. If institutional support is to have its fullest possible meaning it should incorporate the strength, freshness of view, and idealism of the student body.

The respect of students for their college or university can be enhanced if they are given at least these opportunities: (1) to be listened to in the classroom without fear of institutional reprisal for the substance of their views, (2) freedom to discuss questions of institutional policy and operation, (3) the right to academic due process when charged with serious violations of institutional regulations, and (4) the same right to hear speakers of their own choice as is enjoyed by other components of the institution.

The Role of the Faculty in Budgetary and Salary Matters

The Statement which follows was prepared by the Association's Committee T on College and University Government. It was approved by the Council of the American Association of University Professors in May, 1972, and endorsed by the Fifty-eighth Annual Meeting as Association policy.

I. General Principles

The purpose of this Statement is to define the role of the faculty in decisions as to the allocation of financial resources according to the principle of shared authority as set forth in the 1966 *Statement on Government of Colleges and Universities*,[1] and to offer some principles and derivative guidelines for faculty participation in this area. On the subject of budgeting in general, it is asserted in the 1966 *Statement on Government:*

> The allocation of resources among competing demands is central in the formal responsibility of the governing board, in the administrative authority of the president, and in the educational function of the faculty. Each component should therefore have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections. The function of each component in budgetary matters should be understood by all; the allocation of authority will determine the flow of information and the scope of participation in decisions.

Essentially two requirements are set forth in this passage:

A. *Clearly understood channels of communication and the accessibility of important information to those groups which have a legitimate interest in it.*

B. *Participation by each group (governing board, president, and faculty)*[2] *appropriate to the particular expertise of each.* Thus the governing board is expected to husband the endowment and obtain capital and operating funds; the president is expected to maintain existing institutional resources and create new ones; the faculty is expected to establish faculty salary policies and, in its primary responsibility for the educational function of the institution, to participate also in broader budgetary matters primarily as these impinge on that function. All three groups, the *Statement on Government* makes clear, should participate in long-range planning.

II. Faculty Participation in Budgeting

The faculty should participate both in the preparation of the total institutional budget, and (within the framework of the total budget) in decisions relevant to the further apportioning of its specific fiscal divisions (salaries, academic programs, tuition, physical plants and grounds, etc.). The soundness of resulting decisions should be enhanced if an elected representative committee of the faculty participates in deciding on the overall allocation of institutional resources and the proportion to be devoted directly to the academic program. This committee should be given access to all information that it requires to perform its task effectively, and it should have the opportunity to confer periodically with representatives of the administration and governing board. Such an institution-level body, representative of the entire faculty, can play an important part in mediating the financial needs and the demands of different groups within the faculty and can be of significant assistance to the administration in resolving impasses which may arise when a large variety of demands are made on necessarily limited resources. Such a body will also be of critical importance in representing faculty interests and interpreting the needs of the faculty to the governing board and president. The presence of faculty members on the governing board itself may, particularly in smaller institutions, constitute an approach that would serve somewhat the same purpose, but does not obviate the need for an all-faculty body which may wish to formulate its recommendations independent of other groups. In addition, at public institutions there are legitimate ways and means for the faculty to play a role in the submission and support of budgetary requests to the appropriate agency of government.

[1] Jointly formulated by the American Council on Education, the Association of Governing Boards of Universities and Colleges, and the American Association of University Professors.

[2] The participation of students in budgetary decisions affecting student programs and student life is taken for granted in this document, but no attempt is made to define the nature of that participation here.

Budgetary decisions directly affecting those areas for which, according to the *Statement on Government*, the faculty has primary responsibility—curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process—should be made in concert with the faculty. Certain kinds of expenditures related to the academic program, such as the allocation of funds for a particular aspect of library development, student projects under faculty sponsorship, or departmental equipment, will require that the decision-making process be sufficiently decentralized to permit autonomy to the various units of the faculty (departments, divisions, schools, colleges, special programs) in deciding upon the use of their allocations within the broader limits set by the governing board, president, and agencies representative of the entire faculty. In other areas, such as faculty research programs, or the total library and laboratory budget, recommendations as to the desirable funding levels for the ensuing fiscal period and decisions on the allocation of university funds within the current budget levels should be made by the university-level, all-faculty committee as well as by the faculty agencies directly concerned.[3] The question of faculty salaries, as an aspect of faculty status, is treated separately below.

Circumstances of financial exigency obviously pose special problems. At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and specifically as possible of significant impending financial difficulties. The faculty—with substantial representation from its nontenured as well as its tenured members, since it is the former who are likely to bear the brunt of any reduction—should participate at the department, college or professional school, and institution-wide levels, in key decisions as to the future of the institution and of specific academic programs within the institution. The faculty, employing accepted standards of due process, should assume primary responsibility for determining the status of individual faculty members.[4] The question of possible reductions in salaries and fringe benefits is discussed in Section III below. The faculty should play a fundamental role in any decision which would change the basic character and purpose of the institution, including transformation of the institution, affiliation of part of the existing operation with another institution, or merger, with the resulting abandonment or curtailment of duplicate programs.

Before any decisions on curtailment become final, those whose work stands to be adversely affected should have full opportunity to be heard. In the event of a merger, the faculties from the two institutions should participate jointly in negotiations affecting faculty status and the academic programs at both institutions. To the extent that major budgetary considerations are involved in these decisions, the faculty should be given full and timely access to the financial information necessary to the making of an informed choice. In making decisions on whether teaching and research programs are to be curtailed, financial considerations should not be allowed to obscure the fact that instruction and research constitute the essential reason for the existence of the university. Among the various considerations, difficult and often competing, that have to be taken into account in deciding upon particular reductions, the retention of a viable academic program necessarily should come first. Particular reductions should follow considered advice from the concerned departments, or other units of academic concentration, on the short-term and long-term viability of reduced programs.

III. Faculty Participation in Decisions Relating to Salary Policies and Procedures

The *Statement on Government* asserts that "the faculty should actively participate in the determination of policies and procedures governing salary increases." Salaries, of course, are part of the total budgetary picture; and, as indicated above, the faculty should participate in the decision as to the proportion of the budget to be devoted to that purpose. However, there is also the question of the role of the faculty as a body in the determination of individual faculty salaries.

A. *The Need for Clear and Open Policy.* Many imagined grievances as to salary could be alleviated, and the development of a system of accountability to reduce the number of real grievances could be facilitated, if both the criteria for salary raises and the recommendatory procedure itself were (1) designed by a representative group of the faculty in concert with the administration, and (2) open and clearly understood.[5] Such accountability is not participation *per se*, but it provides the basis for a situation in which such participation can be more fruitful.

Once the procedures are established, the person or group who submits the initial salary recommendation (usually the department chairman, singly or in conjunction with an elected executive committee of the department) should be informed of its status at each further stage of the salary-determination process. As the 1966 *Statement* points out, the chief competence for the judgment of a colleague rests in the department, school, or program (whichever is the smallest applicable unit of faculty

[3] For obvious reasons, the focus here is on fundings from the resources of the institution, and not from external agencies such as private contractors or the federal government. Even in these cases, however, it may be possible in certain circumstances for the faculty to play a part in deciding further on the allocation of a particular grant to various purposes related to the project within the institution. There should be careful faculty and administrative scrutiny as to the methods by which these funds are to be employed under the particular contract.

[4] On the question of due process and appropriate terminal settlements for individual faculty members (on tenure or prior to the expiration of a term appointment) whose positions are being abolished, see the *Recommended Institutional Regulations on Academic Freedom and Tenure*, Regulation 4.

[5] This section does not take into account those situations in which salaries are determined upon according to a step system and/or a standard salary is negotiated for each rank. The salary policy and, in effect, individual salaries are public information under such systems.

government within the institution), and in most cases the salary recommendation presumably derives from that judgment. The recommending officer should have the opportunity to defend that recommendation at a later stage in the event of a serious challenge to it.

B. *Levels of Decision-Making.* Not all institutions provide for an initial salary recommendation by the departmental chairman or his equivalent; the Association regards it as desirable, for the reasons already mentioned, that the recommendation normally originate at the departmental level. Further review is normally conducted by the appropriate administrative officers; they should, when they have occasion to question or inquire further regarding the departmental recommendation, solicit informed faculty advice by meeting with the departmental head or chairman and, if feasible, the elected body of the faculty. It is also desirable that a mechanism exist for review of a salary recommendation, or of a final salary decision, by a representative elected committee of the faculty above the departmental level in cases involving a complaint.[6] Such a committee should have access to information on faculty salary levels. Another faculty committee, likewise at a broader level than that of the department, may be charged with the review of routine recommendations.

Of the role of the governing board in college and university government, the *Statement on Government* says: "The governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of administration to the administrative officers, the president and the deans, and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation." The *Statement* adds that "in the broadest sense of the term" the board "should pay attention to personnel policy." The thrust of these remarks is that it is inadvisable for a governing board to make decisions on individual salaries, except those of the chief administrative officers of the institution. Not only do such decisions take time which should be devoted to the board's functions of overview and long-range planning, but such decisions also are in most cases beyond the competence of the board.

When financial exigency leads to a reduction in the overall salary budget for teaching and research, the governing board, while assuming final responsibility for setting the limits imposed by the resources available to the institution, should delegate to the faculty and administration concurrently any further review of the implication of the situation for individual salaries, and the faculty should be given the opportunity to minimize the hardship to its individual members by careful examination of whatever alternatives to termination of services are feasible.

C. *Fringe Benefits.* The faculty should participate in the selection of fringe benefit programs and in the periodic review of those programs. It should be recognized that of these so-called fringe benefits, at least those included in Committee Z's definition of total compensation have the same standing as direct faculty salaries and are separated for tax purposes. They should be considered and dealt with in the same manner as direct payment of faculty salary.

[6] See the *Recommended Institutional Regulations on Academic Freedom and Tenure*, Regulation 15, "Grievance Procedures."

On Institutional Problems Resulting from Financial Exigency: Some Operating Guidelines

The guidelines which follow reflect Association policy as set forth in the Recommended Institutional Regulations on Academic Freedom and Tenure, The Role of the Faculty in Budgetary and Salary Matters, *and other policy documents. They were formulated by the Association's staff, in consultation with the Joint Committee on Financial Exigency, Committee A on Academic Freedom and Tenure, and Committee T on College and University Government. They were first issued in 1971, and reissued in slightly revised form in 1972.*

1. There should be early, careful, and meaningful faculty involvement in decisions relating to the reduction of instructional and research programs. In making such decisions, financial considerations should not be allowed to obscure the fact that instruction and research constitute the essential reason for the existence of the university.

2. Given a decision to reduce the overall academic program, it should then become the primary responsibility of the faculty to determine where within the program reductions should be made. Before any such determination becomes final, those whose life's work stands to be adversely affected should have the right to be heard.

3. Among the various considerations, difficult and often competing, that have to be taken into account in deciding upon particular reductions, the retention of a viable academic program should necessarily come first. Particular reductions should follow considered advice from the concerned departments, or other units of academic concentration, on the short-term and long-term viability of reduced programs.

4. As particular reductions are considered, rights under academic tenure should be protected. The service of a tenured professor should not be terminated in favor of retaining someone without tenure who may at a particular moment seem to be more productive. Tenured faculty members should be given every opportunity, in accordance with Regulation 4(c) of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*,[1] to readapt within a department or elsewhere within the institution; institutional resources should be made available for assistance in readaptation.

5. In some cases, an arrangement for the early retirement of a tenured faculty member, by investing appropriate additional institutional funds into the individual's retirement income (and ordinarily feasible only when social security benefits begin), may prove to be desirable if the faculty member is himself agreeable to it.

6. In those cases where there is no realistic choice other than to terminate the services of a tenured faculty member, the granting of at least a year of notice should be afforded high financial priority.

7. The granting of adequate notice to nontenured faculty should also be afforded high financial priority. The nonreappointment of nontenured faculty, when dictated by financial exigency, should be a consideration independent of the procedural standard outlined in the *Recommended Institutional Regulations* 4(c), with one exception: when the need to make reductions has demonstrably emerged after the appropriate date by which notice should be given, financial compensation to the degree of lateness of notice should be awarded when reappointment is not feasible.

8. A change from full-time to part-time service, on grounds of financial exigency, may occasionally be a feature of an acceptable settlement, but in and of itself such a change should not be regarded as an alternative to the protections set forth in the *Recommended Institutional Regula-*

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[1] The text of *Recommended Institutional Regulation* 4(c), as revised and published in 1976, is as follows:

(c) (1) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur under extraordinary circumstances because of a demonstrably *bona fide* financial exigency, i.e., an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.

[*Note:* Each institution in adopting regulations on financial exigency will need to decide how to share and allocate the hard judgments and decisions that are necessary in such a crisis.

As a first step, there should be a faculty body which participates in the decision that a condition of financial exigency exists or is imminent and that all feasible alternatives to termination of appointments have been pursued.

Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary

tions 4(c) or as a substitute for adequate notice.

9. When one institution merges with another, the negotiations leading to merger should include every effort to recognize the tenure of all faculty members involved. When a faculty member who has held tenure can be offered only a term appointment following a merger, he should have the alternative of resigning and receiving at least a year of severance salary.

10. When financial exigency is so dire as to warrant cessation of operation, the institution's highest obligation in settling its affairs should be to assist those engaged in the academic process so that, with minimal injury, they can continue their work elsewhere.

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responsibility of the faculty or of an appropriate faculty body. The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of age and length of service.

The responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty. The allocation of this responsibility may vary according to the size and character of the institution, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a faculty member given notice of proposed termination of appointment will be governed by the following procedure.]

(2) If the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5 [dismissal proceedings], but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered presumptively valid.

(iii) Whether the criteria are being properly applied in the individual case.

(3) If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.

(4) Before terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.

(5) In all cases of termination of appointment because of financial exigency, the faculty member concerned will be given notice or severance salary not less than as prescribed in Regulation 8 [at least a year of notice, for faculty members on continuous appointment].

(6) In all cases of termination of appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline it.

See "1976 Recommended Institutional Regulations on Academic Freedom and Tenure," *AAUP Bulletin*, 62 (Summer, 1976), pp. 184-191.

Faculty Participation in the Selection and Retention of Administrators

The following statement, prepared by the Association's Committee T on College and University Government, was adopted by the Council of the American Association of University Professors in November, 1974.

Introduction

The 1966 *Statement on Government of Colleges and Universities* rests largely upon the conviction that interdependence, communication, and joint action among the constituents of a college or university enhance the institution's ability to solve educational problems. As one facet of this interdependence, the *Statement* asserts the expectation that faculty members will have a significant role in the selection of academic administrators, including the president, academic deans, department heads, and chairmen.[1] As a corollary, it is equally important that faculty members contribute significantly to judgments and decisions regarding the retention or nonretention of the administrators whom they have helped select.

The Selection of Administrators

The *Statement* emphasizes the primary role of faculty and board in the search for a president. The search may be initiated either by separate committees of the faculty and board or by a joint committee of the faculty and board or of faculty, board, students, and others; and separate committees may subsequently be joined. In a joint committee, the numbers from each constituency should reflect both the primacy of faculty concern and the range of other groups, including students, that have a legitimate claim to some involvement. Each major group should elect its own members to serve on the committee, and the rules governing the search should be arrived at jointly. A joint committee should determine the size of the majority which will be controlling in making an appointment. When separate committees are used, the board, with whom the legal power of appointment rests, should either select a name from among those submitted by the faculty committee or should agree that no person will be chosen over the objections of the faculty committee.

The *Statement on Government* indicates that the faculty role is not as fully coordinate with the selection of academic deans and other administrative officers as it is with respect to the selection of a president. Some

[1] According to the *Statement* ("Statement on Government of Colleges and Universities," *AAUP Bulletin*, Winter, 1966, pp. 375-9):

"Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon cooperative search by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. The president should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty. His dual role requires that he be able to interpret to board and faculty the educational views and concepts of institutional government of the other. He should have the confidence of the board and the faculty.

"The selection of academic deans and other chief academic officers should be the responsibility of the president with the advice of and in consultation with the appropriate faculty." (p. 377)

"The chairman or head of a department, who serves as the chief representative of his department within an institution, should be selected either by departmental election or by appointment following consultation with members of the department and of related departments; appointments should normally be in conformity with department members' judgment. The chairman or department head should not have tenure in his office; his tenure as a faculty member is a matter of separate right. He should serve for a stated term but without prejudice to re-election or to reappointment by procedures which involve appropriate faculty consultation." (p. 378).

academic administrators whose role is almost entirely that of advisor to the president are less directly accountable to the faculty than is the president himself, and they must, therefore, be congenial or at least acceptable to him. Other academic administrators, such as the academic dean, or the dean of a college or other academic subdivision, are by the nature of their duties more directly dependent on faculty support. In such instances, a primary faculty role in the search is highly desirable, and may be particularly critical in institutions where the dean plays a directly influential role *vis-à-vis* the faculty. Even here, however, the president, after fully weighing the views of the faculty, must make the final choice. Nonetheless, sound academic practice dictates that he not choose a person over the reasoned opposition of the faculty.

The Retention of Administrators

The decision to retain or, more significantly, not to retain an administrator should be subject to the same deliberative process and made by the same groups responsible for his selection. Whereas the *selection* of an administrator is essentially an exercise in foresight, a decision respecting his retention affords the opportunity for relevant academic groups to assess, on the basis of experience, the confidence in which the administrator is held.

The faculty role in determining the retention of academic deans and others at this administrative level should be co-extensive with the faculty role in their selection. Just as sound academic practice suggests that the president not choose an administrator seriously objectionable to the faculty, sound practice also dictates that he neither retain the administrator found wanting by faculty standards, nor that he arbitrarily dismiss an administrator who meets the accountability standards of the academic community. In either case his final judgment should be made subject to consultation with the administrator's relevant constituency and preferably by an institutionalized and jointly determined procedure.

With respect to the chief administrative officer, the 1966 *Statement* specifies that the "leadership role" of the president "is supported by delegated authority from the board and faculty." His retention of authority, therefore, like his acquisition of it, should be subject to the confidence in which he is held by faculty and board. Rather than assuming that he has acquired *de facto* tenure in his position as president, some system should be sought which would reflect from time to time the level of confidence he enjoys.

Such a system might take the form of a term appointment, near the end of which the president's term could be reviewed by formal or informal agreement, and he could be reappointed for another term or not be reappointed. Alternatively, at the request of either the board or the faculty, a joint review of his status might be made.

In any event, principal administrative officers should not be dismissed for any reason without significant involvement of the faculty of an institution. They should be protected from arbitrary removal by evolving procedures through joint effort, by which both their rights and the interests of various constituencies are adequately safeguarded.

Joint Statement on Faculty Status of College and University Librarians

The following Statement was prepared by the Joint Committee on College Library Problems, a national committee representing the Association of College and Research Libraries, the Association of American Colleges, and the American Association of University Professors. The Statement was officially endorsed by the Board and Annual Meeting of the Association of College and Research Libraries in 1972. It was adopted by the Council of the American Association of University Professors in April, 1973, and endorsed by the Fifty-ninth Annual Meeting as Association policy.

As the primary means through which students and faculty gain access to the storehouse of organized knowledge, the college and university library performs a unique and indispensable function in the educational process. This function will grow in importance as students assume greater responsibility for their own intellectual and social development. Indeed, all members of the academic community are likely to become increasingly dependent on skilled professional guidance in the acquisition and use of library resources as the forms and numbers of these resources multiply, scholarly materials appear in more languages, bibliographical systems become more complicated, and library technology grows increasingly sophisticated. The librarian who provides such guidance plays a major role in the learning process.

The character and quality of an institution of higher learning are shaped in large measure by the nature of its library holdings and the ease and imagination with which those resources are made accessible to members of the academic community. Consequently, all members of the faculty should take an active interest in the operation and development of the library. Because the scope and character of library resources should be taken into account in such important academic decisions as curricular planning and faculty appointments, librarians should have a voice in the development of the institution's educational policy.

Librarians perform a teaching and research role inasmuch as they instruct students formally and informally and advise and assist faculty in their scholarly pursuits. Librarians are also themselves involved in the research function; many conduct research in their own professional interests and in the discharge of their duties.

Where the role of college and university librarians, as described in the preceding paragraphs, requires them to function essentially as part of the faculty, this functional identity should be recognized by granting of faculty status. Neither administrative responsibilities nor professional degrees, titles, or skills, *per se*, qualify members of the academic community for faculty status. The *function* of the librarian as participant in the processes of teaching and research is the essential criterion of faculty status.

College and university librarians share the professional concerns of faculty members. Academic freedom, for example, is indispensable to librarians, because they are trustees of knowledge with the responsibility of insuring the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn. Moreover, as members of the academic community, librarians should have latitude in the exercise of their professional judgment within the library, a share in shaping policy within the institution, and adequate opportunities for professional development and appropriate reward.

Faculty status entails for librarians the same rights and responsibilities as for other members of the faculty. They should have corresponding entitlement to rank, promotion, tenure, compensation, leaves, and research funds, and the protection of academic due process. They must go through the same process of evaluation and meet the same standards as other faculty members.[1]

On some campuses, adequate procedures for extending faculty status to librarians have already been worked out. These procedures vary from campus to campus because of institutional differences. In the development of such procedures, it is essential that the general faculty or its delegated agent determine the specific steps by which any professional position is to be accorded faculty rank and status. In any case, academic positions which are to be accorded faculty rank and status should be approved by the senate or the faculty-at-large before submission to the president and to the governing board for approval.

With respect to library governance, it is to be presumed that the governing board, the administrative officers, the library faculty, and representatives of the general faculty will share in the determination of library policies that affect the general interests of the institution and its educational program. In matters of internal governance, the library will operate like other academic units with respect to decisions relating to appointments, promotions, tenure, and conditions of service.[2]

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[1] *Cf.* 1940 *Statement of Principles on Academic Freedom and Tenure;* 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings;* 1972 *Statement on Leaves of Absence.*

[2] *Cf.* 1966 *Statement on Government of Colleges and Universities,* formulated by the American Council on Education, American Association of University Professors, and Association of Governing Boards of Universities and Colleges.

Student Participation in College and University Government:

A Report of Committee T

The 1966 Statement on Government of Colleges and Universities[1] *refers to students as "an institutional component coordinate in importance with trustees, administrators, and faculty," notes that "students do not in fact presently have a significant voice in the government of colleges and universities," and expresses the hope that the educational community will "turn its attention to an important need."*

The report which appears below was prepared by Committee T on College and University Government. The Committee and the Association's Council in 1970 approved the current text for publication as a tentative approach to an area which requires further study and consultation.

Introduction

The purpose of this report is to define the principles and identify several appropriate areas of student participation in the government of colleges and universities. The report itself is based on the premise that students as members of the academic community, in addition to their rights as set forth in the *Joint Statement on Rights and Freedoms of Students*, have a distinctive role which, in respects stated below, qualifies them to share in the exercise of responsible authority on campus; the exercise of that authority is part of their education. Furthermore, there is a greater likelihood of responsible student involvement when students participate in institutional decisions through orderly processes and to the degree appropriate in particular circumstances.

Most importantly, joint effort among all groups in the institution—students, faculty, administration, and governing board—is a prerequisite of sound academic government. A further prerequisite is that all must see themselves as custodians of academic freedom. Like any other group, students should have a voice, sometimes the predominant voice, in decisions which affect them, and their opinions should be regularly solicited even in those areas in which they hold a secondary interest. But academic government depends on more than the accommodation of diverse interests. Joint effort, to be effective, must be rooted in the concept of shared authority. The exercise of shared authority in college and university government, like the protection of academic freedom, requires tolerance, respect, and a sense of community which arises from participation in a common enterprise. The exact mode and extent of student participation depend on conditions which vary from one institution to another; but whatever the area of participation or the form it assumes, the need for cooperation among all groups is inescapable.

Student Participation in Academic Affairs

The rights of students to free inquiry and expression in the classroom and in conference is asserted in the *Joint Statement on Rights and Freedoms of Students*. Students also have a stake in the quality of their formal education, which must take into account their needs and desires. The

[1] Jointly formulated by the American Association of University Professors, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. The AAUP Council adopted the Statement in 1966, and the Fifty-third Annual Meeting in April, 1967; the ACE and AGB have commended it to their member institutions and boards.

Other statements deal with the protections due the individual student or faculty member: the 1940 *Statement of Principles on Academic Freedom and Tenure*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* (the basic policy statements, formulated and adopted by the American Association of University Professors and the Association of American Colleges, relating to academic freedom, tenure, and academic due process); the 1967 *Joint Statement on Rights and Freedoms of Students*, approved by the American Association of University Professors, U.S. National Student Association, Association of American Colleges, National Association of Student Personnel Administrators, and National Association of Women Deans and Counselors; and the 1971 *Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*.

categories which follow are those in which student involvement is commonly found; they are not intended to exclude other areas of involvement, which might be developed where there is sufficient student interest. It is for the particular institution to determine the mode and extent of student involvement and the criteria of eligibility for that involvement.

A. *Admissions*

Students have a stake in the size, composition, and quality of the student body, and should have their views on admissions heard along with those of faculty and administration. Similarly, graduate students should be able to participate constructively in decisions regarding the admissions policy of their respective departments.

B. *Academic Programs*

Students should be consulted in decisions regarding the development of already-existing programs and the establishment of new programs. As members of the academic community they should have the opportunity for similar involvement with respect to course load and degree requirements. For example, they may submit reports to the administration or the appropriate faculty or departmental committees through their own curriculum committees, or through membership in joint curriculum committees. When provision is made for an experimental student-operated curriculum, students should have primary responsibility for decision-making.[2] When provision is made for student participation in curricular decisions, criteria for eligibility should be devised jointly by faculty and students.

C. *Academic Courses and Staff*

Students should have the opportunity, through established institutional mechanisms, to assess the value of a course to them, and to make suggestions as to its direction. Students should also be able to express their views on the form and conduct of a class which they have taken, for example through an evaluative questionnaire prepared by joint faculty-student effort, and their opinions should be weighed in faculty decisions affecting faculty status. The faculty member, of course, should be duly protected from capricious and uninformed judgment by students, just as he should be from such judgment by anyone else.

D. *Academic Evaluation*

The method by which students are evaluated is properly of concern to them. Accordingly, students should be heard with respect to the grading system at an institution. They should also have clearly established means of recourse against prejudiced or capricious grading.

E. *Academic Environment*

The scheduling of courses, class size, distribution of night and day classes, calendar arrangements, library policy and development, and similar academic arrangements and services affect the ability of students to do academic work. They should share in the formation of policies on these matters.

[2] By "primary responsibility" is meant the ability to take action which has the force of legislation and can be overruled only in rare instances and for compelling reasons stated in detail.

Student Participation in Other Institutional Affairs

A. *Extracurricular Activities*

Students should have primary responsibility for activities sponsored by the student body. Other appropriate persons and groups should be able to discuss such activities and be consulted with respect to them. Among these activities are cultural programs sponsored by the student body, student political affairs, and student publications; the intellectual vitality and academic freedom of the student body will be insured in such activities by adequate representation of student taste and opinion.

B. *Student Regulations*

Students should have primary responsibility for the formulation of clear and readily available regulations pertaining to their personal lives, subject only to such restrictions as may be imposed by law.

C. *Student Discipline*

Students should have the opportunity to participate in establishing standards and procedures which govern student discipline, and take part also in the actual disciplinary process. Disciplinary proceedings should be in accordance with the provisions of the *Joint Statement on Rights and Freedoms of Students.*

D. *Other Institutional Concerns*

Students have a right to be heard, through formal means, on questions involving an institution's budget, its physical resources, and its relationship with groups or agencies external to the campus. Provisions should exist for the transmission of student views on such matters to the faculty, president, and governing board.

Implementation

The implementation of the above principles is properly subject to innumerable local variations. On students themselves falls the difficult task of assuring that the diversity of student interests and opinions is adequately represented. All individuals and groups at an institution should support the development of appropriate forms of student participation by assuring that organizations purporting to represent student interests possess a mandate from a clearly defined electorate, are accountable to that electorate, and function through orderly procedures agreed upon through joint action by students and the other members of the academic community. Student representatives, like other representatives in any area of university government, should be free to vote according to their best judgment. At all times, students should enjoy protection from the exercise of tyranny by a majority or a minority, the right to petition for and be granted an open hearing

on a question of student rights or student participation, and the right of access—both to information on institutional government and to grievance procedures for complaints relating to their life in and out of the classroom.

Limits on participation by students may be dictated in some instances, such as those in which a violation of law or of confidentiality might result. Where any limitation exists, the student should have the right to challenge it in a manner consistent with legality and the principles of academic freedom. All forms of participation in the government of the institution should be so devised as to preserve the academic freedom to which all groups are equally entitled.

Student involvement in institutional government may include membership—voting and nonvoting—on departmental committees, on college or division councils and committees, or on the university senate or any other principal legislative body and its committees. Where they do not hold membership on these bodies, students should be able to place matters for action on their agendas and to receive a prompt report on the disposition of those matters. Student opinion should also be consulted, where feasible, in the selection of presidents, chief academic and nonacademic administrative officers including the dean of students, and faculty. Sometimes separate and parallel student structures are desired in place of or in addition to mixed bodies. Where this is the case, care should be taken to guarantee that the student bodies not function merely as subordinate entities subject to arbitrary veto by faculty or administrative groups, and that all groups enjoy meaningful channels of appeal. The procedure for election or appointment of students to duly constituted instruments of student participation should be developed in consultation with all directly concerned persons and groups. It should be made available as information to the entire campus community, and be reviewed periodically.

Meaningful participation in college and university government is not guaranteed merely by the presence of students on committees; in some cases, indeed, this may inhibit free student expression. Such expression may well play an important role in institutional affairs through the campus newspaper, published evaluations of courses, or discussion programs on the state of the institution which bring different constituencies together. In any case, the informal exchange of opinion, like the formal participation in the processes of institutional government, should involve students, faculty, administration, and governing board in a continuing joint effort.

Statement on Collective Bargaining

The Statement which follows was prepared by the Association's Committee N on Representation of Economic and Professional Interests. It was adopted by the Council of the American Association of University Professors in April, 1973, and endorsed by the Fifty-ninth Annual Meeting as Association policy.

Collective bargaining, in offering a rational and equitable means of distributing resources and of providing recourse for an aggrieved individual, can buttress and complement the sound principles and practices of higher education which the American Association of University Professors has long supported. Where appropriate, therefore, the Association will pursue collective bargaining as a major additional way of realizing its goals in higher education, and it will provide assistance on a selective basis to interested local chapters.[1]

As large segments of the American faculty community manifest an interest in collective bargaining, there is a pressing need to develop a specialized model of collective bargaining in keeping with the standards of higher education. From its vantage point as the paramount national organization in formulating and implementing the principles that govern relationships of academic life, the Association has the unique potential, indeed the responsibility, to achieve through its chapters a mode of collective bargaining consistent with the best features of higher education. To leave the shaping of collective bargaining to organizations lacking the established dedication to principles developed by the Association and widely accepted by the academic community endangers those principles. To the extent that the Association is influential in the shaping of collective bargaining, the principles of academic freedom and tenure and the primary responsibility of a faculty for determining academic policy will be secured.

The longstanding programs of the Association are means to achieve a number of basic ends at colleges and universities: the enhancement of academic freedom and tenure; of due process; of sound academic government. Collective bargaining, properly used, is essentially another means to achieve these ends, and at the same time to strengthen the influence of the faculty in the distribution of an institution's economic resources. The implementation of Association-supported principles, reliant upon professional traditions and upon moral suasion, can be effectively supplemented by a collective bargaining agreement and given the force of law.

[1] Operating procedures for assisting chapters interested in collective bargaining are available from the Association's Washington Office.

Policy for a Chapter Which Achieves Representative Status

A. When a chapter of the Association attains the status of representative of the faculty, it will seek to:

1. Protect and promote the economic and professional interests of the faculty as a whole in accordance with the established principles of the Association.
2. Establish within the institution democratic structures which provide full participation by all faculty members in accordance with the *Statement on Government of Colleges and Universities.*
3. Obtain explicit guarantees of academic freedom and tenure in accordance with the 1940 *Statement of Principles on Academic Freedom and Tenure,* the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings,* the 1971 *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments,* and other policy statements of the Association.
4. Create an orderly and clearly defined procedure within the faculty governmental structure for prompt consideration of problems and grievances of faculty members, to which procedure any affected individual or group shall have full access.

B. In any agency shop or compulsory dues check-off arrangement, a chapter or other Association agency should incorporate provisions designed to accommodate affirmatively asserted conscientious objection to such an arrangement with any representative.

C. It is the policy of the Association to call or support a faculty strike or other work stoppage only in extraordinary situations which so flagrantly violate academic freedom or the principles of academic government, or which are so resistant to rational methods of discussion, persuasion, and conciliation, that faculty members may feel impelled to express their condemnation by withholding their services, either individually or in concert with others. It should be assumed that faculty members will exercise their right to strike only if they believe that another component of the institution (or a controlling agency of government, such as a legislature or governor) is inflexibly bent on a course which undermines an essential element of the educational process. (See the Association's provisional *Statement on Faculty Participation in Strikes.*)

Faculty Participation in Strikes

The following report of the Special Joint Committee on Representation, Bargaining, and Sanctions, including the proposed Statement on Faculty Participation in Strikes, was approved for publication by the Council of the American Association of University Professors in April, 1968.

On December 15, 1965, the administration of St. John's University (New York) summarily suspended from teaching 22 members of the faculty and notified them and 11 others that they would be dismissed at the end of their then current contracts. This unprecedented event, preceded by a period of worsening relations between the administration and parts of the faculty, was followed, on January 3, 1966, by what was probably the first major faculty strike against a university administration in the United States. The strike did not succeed, in that the university continued to operate, and the dismissed teachers were not reinstated.[1]

Less than a year and a half later, the announcement at Catholic University (Washington, D. C.) that a faculty member would not be retained (after he had been recommended for promotion) led to a total and almost spontaneous refusal by students to attend classes and by the faculty to meet their classes. After four days, the bishops who composed the governing board of Catholic University rescinded the dismissal. Not long after, an acting Rector was appointed, who is reported to have said that, had he been a member of the faculty at the time, he would have joined in the strike (if what happened could properly be called a strike).[2]

In the same two years, 1966-67, there were, in a number of institutions, student-led demonstrations which included mass absences from classes. Some faculty members cooperated in some of these demonstrations by refusing to meet their classes. There was a strike in a large urban institution, the Chicago City College, in which the grounds, unlike those in the St. John's and Catholic University episodes, were primarily economic. The faculty thought that they were underpaid and overworked; in addition, the Cook County College Teachers Union was seeking recognition as the faculty's bargaining agent. It achieved recognition, some gain in faculty salaries, and a reduction in faculty workload.

Along with these dramatic and unsettling events, the last five years have witnessed a rise of interest in collective representation and bargaining in public institutions of higher education, stimulated by the passage of legislation in major states designated to legitimate collective bargaining by public employees.[3] Where the American Federation of Teachers has been active in organizing faculties, it has had no hesitation in avowing its willingness to resort to a union's ultimate weapon in economic bargaining, the strike.[4]

The response of one governing board, the Regents of the University of California, to a brief strike at Berkeley, chiefly of teaching assistants, was to threaten the possibility

[1] *AAUP Bulletin*, Spring, 1966, pp. 12-19; and Summer, 1966, p. 124.

[2] *New York Times*, April 21, 1967; and October 10, 1967.

[3] New York, Michigan, Rhode Island.

[4] Columbus, Ohio, *Dispatch*, April 23, 1966; *New York Times*, August 25, 1966.

of dismissal of any university personnel "who participate in any strike or otherwise fail to meet their assigned duties in an effort to disrupt the University administration, teaching, or research. . . ." [5]

In view of these events and movements, it has become important if not imperative for the American Association of University Professors to review its own position in respect to the professional propriety of a concerted withholding of faculty services. In blunter parlance, what is the Association's position on faculty strikes?

The issues were first adumbrated at an Association conference on representation of economic interests convened in December, 1964.[6] They might have been left to leisurely debate had it not been for the shocking dismissals at St. John's, and the subsequent strike call by the American Federation of Teachers when efforts at mediation (including those of our Association) had failed.

The Association's leadership was then obliged to react to the fact, not simply the theory, of a faculty strike.

The Executive Committee, on January 6, 1966, authorized the General Secretary to release a statement which made the following points of general application (they have been numbered by this committee for convenience in reference).

> [1.] The American Association of University Professors has never looked upon the strike as an appropriate mechanism for resolving academic controversies or violations of academic principles and standards. Regardless of an immediate situation it is in the best long-run interests of the institution and the academic community to use approaches and procedures developed by that community to meet its own objectives and needs. Accordingly, the Association does not endorse a strike against an academic institution.

After promising a "thorough investigation" of the summary dismissals at St. John's, and support to faculty members improperly dismissed, the statement went on to say:

> [2.] In their role as teachers, faculty members have a primary responsibility to their students. Accordingly, if a strike is called, the individual faculty member must carefully weigh this responsibility to his students in reaching his decision whether or not to respect a picket line set up by his colleagues. In a continuing and flagrant situation, a refusal by individual faculty members to cross picket lines maintained by their colleagues, when their refusal is based upon personal dictates of conscience and their intimate familiarity with the facts, should not be considered a violation of professional ethics.
>
> [3.] Faculty members must, of course, also honor the position of those of their colleagues who, on the basis of general professional considerations and their obligations to their students, continue to meet their classes.
>
> [4.] In the same context the Association believes further that it is not a violation of professional responsibility for a faculty member to refuse to teach the classes of a colleague who has been dismissed in violation of accepted principles of academic freedom or tenure.

We call particular attention to the propositions we have numbered 3 and 4, because we think there can be no question of their correctness. We also believe that proposition number 2 is a correct statement of the conflict of loyalties that an individual faculty member may encounter, if a strike is called. It points the way to an ethical resolution, motivated by an informed conscience.

As for the first proposition, its origin in the history of the Association is clear enough but has never been formalized. But it doubtless represented dominant sentiment at the time. It was soon reiterated, although in a different context and perhaps for different reasons, when the Council, on May 1, 1966, adopted an interim policy on "the role of Association chapters as exclusive bargaining representatives." If, within the circumscribed conditions there set forth, a chapter should become an exclusive representative of its faculty, the statement declared that "no strike or work stoppage will be called or supported by the chapter or its officers." [7]

Both statements, those of January 6 and May 1, were the product of some urgency and of limited consideration. Many members of the Council were not sure that they represented the best that could be said on a troublesome and potentially divisive topic. The Council accordingly adopted a resolution proposed on behalf of Committee A, on April 30, 1967, calling on the President to appoint a committee to "report to the Council on the subject of the implications of the use by professors of concerted refusal to perform services as a sanction for obtaining various objectives, and to report on the appropriateness of various kinds of administration responses to the use of this sanction by professors." [8]

The committee formed pursuant to this resolution [9] had little experience with faculty strikes to draw upon, even taking into account the episodes mentioned at the beginning of this report. The history and law of strikes in commerce and industry we think have limited application in view of the premises we hold about the special status of our profession.

We have attempted to arrive at a principled position, which would also be a prudent one. We have come to believe that we should not adhere to the implication of the January 6, 1966, statement that a strike is never "an appropriate mechanism for resolving academic controversies or violations of academic principles and standards." But we are acutely aware that there are a variety of unpredictable elements that would enter into, and of involved consequences that would flow from, a decision to support a faculty strike. We consequently put forward in generalized and severely limited terms the suggestion that sometimes a faculty strike may be appropriate – almost because it becomes unavoidable.

The statement of policy that we propose to the Association has at least the merit of brevity. We therefore introduce it at this point, with a modest commentary following.

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[5] University of California, *University Bulletin*, May 1, 1967, pp. 157-8.

[6] *AAUP Bulletin*, Autumn, 1965, pp. 374-7.

[7] *AAUP Bulletin*, Summer, 1966, p. 230.

[8] *AAUP Bulletin*, Autumn, 1967, p. 335.

[9] The Committee consisted of the President, the General Secretary, and the Chairmen of Committees A, B, REI [now N], T, and Z.

Statement on Faculty Participation in Strikes

The American Association of University Professors is deeply committed to the proposition that faculty members in higher education are officers of their colleges and universities. They are not merely employees. They have direct professional obligations to their students, their colleagues, and their disciplines. Because of their professional competence, they have primary responsibility for central educational decisions; they share in the selection of presidents and deans; and their judgment should come first in the determination of membership in the faculty. Where these principles (which are more fully stated in the 1966 *Statement on Government of Colleges and Universities*) are not accepted in their entirety, the Association will continue to press for their realization. We believe that these principles of shared authority and responsibility render the strike inappropriate as a mechanism for the resolution of most conflicts within higher education.

But it does not follow from these considerations of self-restraint that professors should be under any legal disability to withhold their services, except when such restrictions are imposed equally on other citizens. Furthermore, situations may arise affecting a college or university which so flagrantly violate academic freedom (of students as well as of faculty) or the principles of academic government, or which are so resistant to rational methods of discussion, persuasion, and conciliation, that faculty members may feel impelled to express their condemnation by withholding their services, either individually or in concert with others. It should be assumed that faculty members will exercise their right to strike only if they believe that another component of the institution (or a controlling agency of government, such as a legislature or governor) is inflexibly bent on a course which undermines an essential element of the educational process.

Participation in a strike does not by itself constitute grounds for dismissal or for other sanctions against faculty members. Moreover, if dismissal of a faculty member is proposed on this, as on any other ground encompassed by the 1940 *Statement of Principles on Academic Freedom and Tenure*, the proceedings must satisfy the requirements of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*. The Association will continue to protect the interests of members of the profession who are singled out for punishment on grounds which are inadequate or unacceptable, or who are not offered all the protection demanded by the requisites of due process.

The proposed statement rests on two attributes of faculty membership in higher education that have been thoroughly expounded,[10] and that we consider axiomatic. One is that professors "share in the government of their institutions." The other is that they have "direct professional obligations to their students, their colleagues, and their disciplines." From these "principles of shared authority and responsibility," how do we derive the conclusion that "the strike [is] inappropriate as a mechanism for the resolution of most conflicts within higher education"?

First, a strike usually (but not always) is called against an employer, in the hope of exerting pressure on him to prevent unwanted events, or to bring about desired ones. The opponent in a faculty strike will usually be the administration or the governing board or both. Resort to the strike as a regular mechanism for the resolution of conflicts with administrations or governing boards imperils the faculty's just claim to partnership in the government of the institution, by implying acceptance of the status of mere employees. Of course, for some purposes, faculty members are employees; they are paid salaries; they have access to a variety of public benefits that favor employees. But the employee status should not be needlessly extended. Employees strike against employers; co-ordinate and interdependent members of a community do not usually strike against each other.

Second, a strike is a witness of failure. Its occurrence means that a relationship that should be one of mutual trust has become an adversary one. A strike, to be sure, will usually be the outcome rather than the cause of a breakdown of communications and confidence. But it carries the risk of further hardening of opposed positions, and of creating deeper rifts. A third and related consideration disfavoring the strike is that it constitutes a reliance on concerted power by those who are preeminently charged with advancement and instruction in the uses of reason. Finally, to the extent that a strike is perceived to be in the personal interests of the faculty, it contradicts the dedication of the faculty to the educational interests of the students.

When this, and more, can be said in opposition to faculty strikes, what supports our conclusion that in some circumstances such an act may be justified? The answer depends largely upon the circumstances, and therefore

[10] *AAUP Bulletin*, Autumn, 1966, pp. 290-1; and Winter, 1966, pp. 375-9.

cannot be fully developed in advance of sufficiently provocative events.

The second paragraph of the proposed statement emphasizes flagrant violations of academic freedom, or of good academic government, or of the integrity of some other essential element of higher education. It calls for the pursuit to exhaustion of "rational methods of discussion, persuasion, and conciliation." But in the end, one must contemplate situations where self-respect demands an end to temporizing. No more than anyone else can professors be expected to go about their daily duties in an atmosphere poisoned by injustice and destructiveness.

It may be said—and this course was commended for those who took it in the St. John's case—that the proper response to an intolerable environment is to resign, effective at the end of the academic term or year. This has the marked advantage of not leaving one's students stranded. It is a courageous act which forcefully notifies the administration, and others, that the faculty member finds the situation so bad that he wishes to sever all connections with the institution. But such a delayed response may permit an intolerable situation to become insuperable. A strike is supposed to have a shock effect, and some shocks are salutary. Either cumulative grievances, or a precipitate act of tyranny, may be reversible only by a demonstration that galvanizes all components of the internal and external community. The faculty may find that it has valuable allies if with deliberate spontaneity it takes a bold stand.

The proposed statement, in a parenthesis that is far from incidental, also points out that the source of outrage may be a "controlling agency" outside a particular campus. In a time when the autonomy of local faculty and administration may be impaired by the creation of statewide boards, and by the endemic intervention of governors and legislators, any one of these, if heedless of academic freedom or of spheres of professional competence, may become the common enemy. The more remote such an external force is, the more insensitive it may be to the legitimate claims of a faculty. Thus a legislature, accustomed to direct political confrontations, may sometimes be moved only if the faculty confronts it with a dramatic defiance.

None of these observations offers specific guidance for action or inaction. Our experience with actual cases is so slight that we feel unable to respond with any confidence to hypothetical ones. We should perhaps comment on a few recurring situations. What about economic issues, when the faculty is thwarted in demands for more pay and less work? Do such rebuffs create an appropriate occasion for strikes? We suggest not, when it is a matter of a little more or a little less. Circumstances can be imagined, of gross disparities, of a severe cut in salary appropriations, of scandalous teaching loads, that might properly be characterized as undermining the educational process. But we emphatically reject the industrial pattern which holds the strike in routine reserve for use whenever economic negotiations reach an impasse.

We are of the opinion that a strike is clearly inappropriate when it does not have positive educational objectives. For example, if a faculty affiliated with a trade union struck in support of claims against the institution of another trade union—for example of service employees—we should consider this inappropriate. Similarly, a strike to dramatize some national or international political position could not be countenanced by a professional organization like this Association.

We have been speaking so far of the propriety of strikes, not of their legality. Faculty members in public institutions, in most of the states, share in the legal constraints that rest generally on public employees.[11] The notion that public servants have no "right to strike" is a persistent one—kept alive by the same Congress and legislatures that guarantee this "right" to those in private employment. Even though many recent episodes, including teachers' strikes, demonstrate that these punitive restrictions are often ineffective, we do not suggest that faculty members in higher education should violate the law.

But we do, in the first sentence of the second paragraph of the proposed statement, place the Association in opposition to such laws. Public servants directly concerned with public health and safety—the classic examples are police and firemen—may have to endure restraints on their freedom to refuse their services. While we place a lofty value on higher education, we do not believe that its interruption by a strike affects the public health and safety. If declarations of national emergency or other overriding public policies generally limited freedom to withhold services, we should not ask for nor expect discrimination in favor of teachers. But, along with the many other public functionaries whose continuous services are not vital to the community, teachers in public institutions of higher education should not have their liberties automatically restricted simply because (to the extent that they are employees) a governmental agency is their employer.

The third paragraph of the proposed statement deals briefly (and, we concede, incompletely) with institutional sanctions against participation in a faculty strike. The reminder that due process in all its fullness must be observed, especially when dismissal for cause of a faculty member is proposed, is unqualified and needs no amplification. But the declaration that participation in a strike is not "by itself" grounds for administrative penalties or punishments is indeterminate. It does not say that faculty

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[11] A helpful memorandum to the General Secretary by Professor Robert A. Gorman (Law, University of Pennsylvania), "Statutory Responses to Collective Bargaining in Institutions of Higher Learning" (January, 1968), observes: "The most significant deviation [for public employment] from the private-employment model is the wide-spread statutory proscription upon the right of public employees to engage in a strike or other form of work stoppage. Beyond the mere proscription, and the statement of penalties for its violation, it is not uncommon for a statute to provide that no employee organization may serve as a representative in collective bargaining unless it affirmatively renounces the right to strike and declares that it will not assist or participate in any such strike. The outlawing of the strike is understood to apply to any concerted withholding of services by present employees (probably including the solicitation of mass resignations) . . . ." (p. 9)

members are free to absent themselves from their duties without any fear of painful consequences. Withholding of services during term time is *prima facie* a breach of contract. It may not be so if the other party to the contract has by his own acts disabled himself from enforcing it. These observations, we recognize, are barely an introduction to complicated issues that must be the subject for further exploration.

We note with gratification that the seeming threat of the University of California Regents' resolution, mentioned earlier in this report, was moderated when the Regents, speaking through Acting President Wellman, made it clear that the resolution was intended to "identify a particular cause which *might* make University personnel subject to dismissal or other disciplinary action." [Emphasis supplied.] The Wellman memorandum also states that hearings would be provided in accordance with tenure regulations, and that "all relevant circumstances of individual cases will be considered." [12] We can only agree heartily that "all relevant circumstances" should be considered. Once again, we would remind the academic community that a strike is not a carefree holiday; it is a hostile act leading to possible reprisals. As in war, even victory may be attended by casualties.

Indeed, we might have hesitated to move as far as we have in the proposed statement in the face of a contrary tradition within our own Association, and in view of all the risks and uncertainties that we have tried to suggest, if we had not found support in an inquiry almost parallel to ours. An able task force (composed entirely of professors) of the American Association for Higher Education, recently spoke as follows:

> We conclude that there are no decisive reasons why the faculty should be denied the opportunity to strike, in terms of either society's essential needs or the long-run interests of the institution. Most faculty members will resist the tendency to strike because use of this weapon seems inconsistent with their view of themselves as members of a profession committed to reason. We share this hesitancy to endorse strikes, but we do not automatically reproach a faculty which feels compelled to take this step as a last resort when other methods have been exhausted. If the administration has denied the faculty the right to participate effectively in campus decision-making, then it must accept a major share of the responsibility when a strike ensues.[13]

[12] University of California, *University Bulletin,* September 25, 1967, p. 48.

[13] *Faculty Participation in University Governance,* AAHE, 1967, p. 52. See p. v for the membership of the Task Force.

Arbitration of Faculty Grievances

A Report of a Joint Subcommittee of Committees A and N

The report which follows was prepared by a joint Subcommittee of the Association's Committees A and N. Committees A and N believe that further experience with arbitration is desirable before policies and good practices can be specified. Meanwhile Committees N and A, acting at their respective meetings in March and April, 1973, have approved publication of the report of this special joint Subcommittee. The Committees recommend it as a first statement of the problems in relation to established Association policies.

I. Introduction

Collective bargaining by faculties in higher education has been accompanied by the use of arbitration for the resolution of disputes involving questions of contractual application or interpretation which may include matters of faculty status and rights. It should be noted that the use of arbitration does not wholly depend on the existence of a collective bargaining relationship. It may be provided for in institutional regulations, agreed to between an internal faculty governing body and the administration, or utilized on an *ad hoc* basis in a particular case. The enforceability of agreements to arbitrate future disputes, however, is a legal question involving both federal and state law. Since arbitration developed in the industrial context, it must be given the closest scrutiny when applied to the needs of higher education. Accordingly, this joint Subcommittee was given the task of providing an initial review of that application.

II. Preliminary Considerations

The Association has been committed, since its founding in 1915, to securing a meaningful role for the faculty in decisions on matters of faculty status, rights, and responsibilities. The *Statement on Government of Colleges and Universities*, drafted jointly with the American Council on Education and the Association of Governing Boards of Universities and Colleges and incorporated by reference in the *Statement on Collective Bargaining* governing the Association's own role in collective representation, provides a brief discussion of the bases for this position:

> The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues; in such competence it is implicit that responsibility exists for both adverse and favorable judgments. Likewise there is the more general competence of experienced faculty personnel committees having a broader charge. Determinations in these matters should first be by faculty action through established procedures, reviewed by the chief academic officers with the concurrence of the board. The governing board and the president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.

The *Statement* does not suggest a formal device to resolve disputes between faculty and governing board. Indeed, resort to any body outside the institution, such as the courts, for an official resolution of disputes in matters of faculty status, rights, and responsibilities poses a serious challenge to accepted notions of institutional autonomy. Moreover, a survey of current practices, admittedly limited, reveals that arbitration has been used not solely to break impasses between faculty and governing board but to review the soundness of faculty decisions themselves. This suggests an additional problem of the relationships of arbitration to faculty autonomy.

III. The Use of Arbitration

In many situations, administrators are responsive to faculty recommendations and indeed may welcome them. In such cases the resort to arbitration will probably not be perceived as necessary. In some situations, however, administrators or trustees are unresponsive to Association standards and faculty actions, and final legal authority

* *Note:* Arbitration is a term describing a system for the resolution of disputes whereby the parties consent to submit a controversy to a third party for decision. The decision may be advisory only but is usually agreed to be binding. The parties participate in the selection of the arbitrator and may shape the procedure to be used; costs are usually borne equally between them.

to resolve matters of faculty status usually lies with the governing board concerned. In such cases, outside impartial review may well be useful. It must also be recognized that in many situations faculty do not enjoy or exercise a degree of independence adequate to the assurance of protections embodied in Association standards. In this situation also, independent impartial review may play a role. For example, disputes regarding the appropriateness of individual salaries, or the imposition of penalties for alleged violations of institutional regulations, or the termination of academic appointments for reason of financial exigency, or decisions affecting a faculty member's teaching duties or programs of instruction are the sort of controversies resolution of which may be fostered in varying degrees by arbitration.

It seems clear that where resort to a formal external agency is deemed necessary, arbitration affords some advantages over judicial proceedings. In a court challenge, the procedure and substance are prescribed by federal and state constitutions, statutes, and judicial decisions in whose formulation the profession has almost no role. In contrast, arbitration procedures and substantive rights are largely within the joint power of the administration and the faculty's collective representative to prescribe. Hence the parties to the academic relationship can shape procedures to their special needs, formulate substantive rules embodying the standards of the profession, and select decision makers with special competence in the field. In addition, arbitration may prove a quicker and less expensive remedy.

Thus, where the faculty does not share in the making of decisions or its voice is not accorded adequate weight, arbitration may have particular utility. However, the finality of arbitral review also has its hazards, especially in the present nascent state of arbitral doctrine, and because of the slight experience of arbitrators in academic settings. Accordingly, arbitration may play a useful role in an academic setting to the extent it can foster rather than impair the sound workings of institutional government.

It is suggested that four factors are essential for the effective use of arbitration: (1) sound internal procedures preliminary to arbitration which enjoy the confidence of both faculty and administration; (2) careful definitions of both arbitral subjects and standards to be applied by the arbitrator; (3) the selection of arbitrators knowledgeable in the ways of the academic world, aware of the institutional implications of their decisions, and, of course, sensitive to the meaning and critical value of academic freedom; and (4) the assurance that the hearing will include evidence relating to the standards and expectations of the teaching profession in higher education and that appropriate weight will be given to such evidence.

(1) *Preliminary Procedures*

Arbitration should be used most discriminatingly. It is not a substitute for proper procedures internal to the institution but should serve only as a final stage of that procedure. The availability of this forum should assist in rendering the earlier procedures more meaningful. Indeed, the submission of an inordinate number of grievances to arbitration may be significantly erosive of healthy faculty-administration relations.

The Association has suggested preliminary procedures for the adjustment of general faculty complaints and grievances.[1] With more detail, the Association has crystalized procedures to be utilized in dismissal proceedings,[2] proposed procedures to be used in hearing allegations of violations of academic freedom in the nonreappointment of nontenured faculty,[3] and, most recently, adopted detailed provisions dealing with decisions on nonreappointment and review therefrom not raising issues of academic freedom.[4]

The Subcommittee recognizes that a wide variety of institutional practice exists in American higher education and that the degree to which faculties actually possess the decision-making authority recommended in the foregoing varies accordingly. It may not be possible, then, to propose a single model of arbitration responsive to these varying institutional patterns and the many kinds of issues which could conceivably be presented for an arbitral determination. The Subcommittee believes it of critical importance, however, that in the agreement to arbitrate any matter affecting faculty status, rights, and responsibilities, the judgment of the faculty as the professional body properly vested with the primary responsibility for such determinations be afforded a strong presumption in its favor.

(2) *Arbitral Standards*

The definition of the arbitral standard requires the most careful attention. In some instances arbitration has been used to correct only procedural departures while in others arbitral review of the merits of a decision has been afforded. The latter has proceeded under broad standards such as "just cause" for a particular action or more rigorous ones such as determining whether the questioned decision was "arbitrary and capricious."

A tentative review of arbitral decisions under the varying approaches has revealed widely differing results and in some cases a degree of arbitral unresponsiveness to the underlying academic values. Accordingly, the Subcommittee believes it requisite to the use of arbitration as a means of enhancing internal government that fairly rigorous arbitral standards be established in those cases in which norms and procedures unique to higher education are implicated.

(3) *Selection and Education of Arbitrators*

Much depends on the qualities of the individual selected to serve as the arbitrator and the degree to which he or she is educated by the parties to the issues for adjudication in the context of professional practice and custom

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[1] *Recommended Institutional Regulations on Academic Freedom and Tenure*, Regulation 15.

[2] 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

[3] *Recommended Institutional Regulations*, Regulation 10.

[4] *Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*.

and to the importance of the decision to the life of the institution. Here the Association can make a valuable contribution, whether or not a local affiliate is serving as a collective representative. As the preeminent organization of college and university faculty in the United States, the Association should share its expertise in reviewing the qualifications of proposed arbitrators and should consider, jointly with other organizations, consulting on the establishment of a national panel or regional panels of qualified individuals. Further, the Association may prepare model briefs or other materials dealing with accepted norms of academic practice to be used as educational materials before an arbitrator and should consider sponsoring, again possibly with other organizations, workshops for arbitrators on these issues. The Association should also maintain an up-to-date file of awards and provide detailed comments on their academic implications, perhaps in some published form. Since the use of arbitration in this setting is so novel, it is clear that for higher education, unlike for the industrial sector, no well-defined set of doctrines has been developed. It is incumbent on the Association to assist directly in shaping such doctrines through all available means. Toward this end the Association should establish a joint subcommittee of the national committees having an interest in this area. A detailed study of the actual effects of arbitration under the varying approaches currently practiced and the drafting of model arbitration clauses would fall within the purview of such a body.

Two final issues require attention: the rights of the individual under a collective agreement providing for arbitration as the terminal stage of the grievance procedure; and the Association's role in the event an arbitral award departs significantly from fundamental substantive standards sponsored by it.

Where there is an exclusive collective representative the agent almost invariably controls access to arbitration. The Subcommittee believes that this approach may be inappropriate in an academic setting and recommends that individual faculty members have access to arbitration on their own behalf if the collective representative refuses to press their claims. Because the issue placed before an arbitrator may touch deeply an individual's basic academic rights or freedoms, the individual should have the opportunity of participating in the selection of the arbitrator and have full rights to participate in all phases of the procedure, including all preliminaries, on a parity with the collective representative, if any, and the administration. Experimentation with the allocation of costs of proceedings where the representative does not itself desire to proceed to arbitration would be useful. Costs may be assessed by the arbitrator between the parties according to the gravity of the injury, if one is found, or could be borne equally by the administration and the complaining faculty member.

The Association has traditionally viewed itself as supporting basic standards and has not viewed its processes as being limited because of contrary provisions in an institution's regulations, or, for that matter, an adverse judicial determination. Equally, the Association should continue to challenge significant departures from elemental academic rights, whether or not these departures have warrant in a collective agreement or an arbitrator's award.

IV. Summary

Arbitration can be a useful device for resolving some kinds of disputes and grievances that arise in academic life. Especially when collective bargaining is practiced, resort to arbitrators who are sensitive to the needs and standards of higher education may be the preferred way to avoid deadlocks or administrative domination. But arbitration is not a substitute for careful procedures that respect the autonomy of the faculty and administration in their respective spheres. A system of collective bargaining that routinely resorts to arbitration is an abdication of responsibility. This is especially true of the faculty's primary responsibility to determine who shall hold and retain faculty appointments.

Statement on Professional Ethics

The Statement on Professional Ethics was approved by the Council of the American Association of University Professors in April, 1966, and endorsed by the Fifty-second Annual Meeting as Association policy.

Introduction

From its inception, the American Association of University Professors has recognized that membership in the academic profession carries with it special responsibilities. The Association has consistently affirmed these responsibilities in major policy statements, providing guidance to the professor in his utterances as a citizen, in the exercise of his responsibilities to students, and in his conduct when resigning from his institution or when undertaking government-sponsored research.[1] The *Statement on Professional Ethics* that follows, necessarily presented in terms of the ideal, sets forth those general standards that serve as a reminder of the variety of obligations assumed by all members of the profession. For the purpose of more detailed guidance, the Association, through its Committee B on Professional Ethics, intends to issue from time to time supplemental statements on specific problems.

In the enforcement of ethical standards, the academic profession differs from those of law and medicine, whose associations act to assure the integrity of members engaged in private practice. In the academic profession the individual institution of higher learning provides this assurance and so should normally handle questions concerning propriety of conduct within its own framework by reference to a faculty group. The Association supports such local action and stands ready, through the General Secretary and Committee B, to counsel with any faculty member or administrator concerning questions of professional ethics and to inquire into complaints when local consideration is impossible or inappropriate. If the alleged offense is deemed sufficiently serious to raise the possibility of dismissal, the procedures should be in accordance with the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings.*

The Statement

I. The professor, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognizes the special responsibilities placed upon him. His primary responsibility to his subject is to seek and to state the truth as he sees it. To this end he devotes his energies to developing and improving his scholarly competence. He accepts the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. He practices intellectual honesty. Although he may follow subsidiary interests, these interests must never seriously hamper or compromise his freedom of inquiry.

II. As a teacher, the professor encourages the free pursuit of learning in his students. He holds before them the best scholarly standards of his discipline. He demonstrates respect for the student as an individual, and adheres to his proper role as intellectual guide and counselor. He makes every reasonable effort to foster honest academic conduct and to assure that his evaluation of students reflects their true merit. He respects the confidential nature of the relationship between professor and student. He avoids any exploitation of students for his private advantage and acknowledges significant assistance from them. He protects their academic freedom.

III. As a colleague, the professor has obligations that derive from common membership in the community of scholars. He respects and defends the free inquiry of his associates. In the exchange of criticism and ideas he shows

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[1] 1964 Committee A Statement on Extra-Mural Utterances (Clarification of sec. 1c of the 1940 *Statement of Principles on Academic Freedom and Tenure*)
1968 *Joint Statement on Rights and Freedoms of Students*
1961 *Statement on Recruitment and Resignation of Faculty Members*
1964 *On Preventing Conflicts of Interest in Government-Sponsored Research*
1966 *Statement on Government of Colleges and Universities*

due respect for the opinions of others. He acknowledges his academic debts and strives to be objective in his professional judgment of colleagues. He accepts his share of faculty responsibilities for the governance of his institution.

IV. As a member of his institution, the professor seeks above all to be an effective teacher and scholar. Although he observes the stated regulations of the institution, provided they do not contravene academic freedom, he maintains his right to criticize and seek revision. He determines the amount and character of the work he does outside his institution with due regard to his paramount responsibilities within it. When considering the interruption or termination of his service, he recognizes the effect of his decision upon the program of the institution and gives due notice of his intentions.

V. As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person he avoids creating the impression that he speaks or acts for his college or university. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

A Statement of the Association's Council: Freedom and Responsibility

The following Statement was adopted by the Council of the American Association of University Professors at its meeting of October 30-31, 1970.

For more than half a century the American Association of University Professors has acted upon two principles: that colleges and universities serve the common good through learning, teaching, research, and scholarship; and that the fulfillment of this function necessarily rests upon the preservation of the intellectual freedoms of teaching, expression, research, and debate. All components of the academic community have a responsibility to exemplify and support these freedoms in the interests of reasoned inquiry.

The 1940 *Statement of Principles on Academic Freedom and Tenure* asserts the primacy of this responsibility. The 1966 *Statement on Professional Ethics* underscores its pertinency to the individual faculty member and calls attention to his responsibility, by his own actions, to uphold his colleagues' and his students' freedom of inquiry and to promote public understanding of academic freedom. The *Joint Statement on Rights and Freedoms of Students* emphasizes the shared responsibility of all members of the academic community for the preservation of these freedoms.

Continuing attacks on the integrity of our universities and on the concept of academic freedom itself come from many quarters. These attacks, marked by tactics of intimidation and harassment and by political interference with the autonomy of colleges and universities, provoke harsh responses and counterresponses. Especially in a repressive atmosphere, the faculty's responsibility to defend its freedoms cannot be separated from its responsibility to uphold those freedoms by its own actions.

I

Membership in the academic community imposes on students, faculty members, administrators, and trustees an obligation to respect the dignity of others, to acknowledge their right to express differing opinions, and to foster and defend intellectual honesty, freedom of inquiry and instruction, and free expression on and off the campus. The expression of dissent and the attempt to produce change, therefore, may not be carried out in ways which injure individuals or damage institutional facilities or disrupt the classes of one's teachers or colleagues. Speakers on campus must not only be protected from violence, but given an opportunity to be heard. Those who seek to call attention to grievances must not do so in ways that significantly impede the functions of the institution.

Students are entitled to an atmosphere conducive to learning and to even-handed treatment in all aspects of the teacher-student relationship. Faculty members may not refuse to enroll or teach students on the grounds of their beliefs or the possible uses to which they may put the knowledge to be gained in a course. The student should not be forced by the authority inherent in the instructional role to make particular personal choices as to political action or his own part in society. Evaluation of students and the award of credit must be based on academic performance professionally judged and not on matters irrelevant to that performance, whether personality, race, religion, degree of political activism, or personal beliefs.

It is a teacher's mastery of his subject and his own scholarship which entitle him to his classroom and to freedom in the presentation of his subject. Thus, it is improper for an instructor persistently to intrude material which has no relation to his subject, or to fail to present the subject matter of his course as announced to his students and as approved by the faculty in their collective responsibility for the curriculum.

Because academic freedom has traditionally included the instructor's full freedom as a citizen, most faculty members face no insoluble conflicts between the claims of politics, social action, and conscience, on the one hand,

and the claims and expectations of their students, colleagues, and institutions, on the other. If such conflicts become acute, and the instructor's attention to his obligations as a citizen and moral agent precludes the fulfillment of substantial academic obligations, he cannot escape the responsibility of that choice, but should either request a leave of absence or resign his academic position.

II

The Association's concern for sound principles and procedures in the imposition of discipline is reflected in the 1940 *Statement of Principles on Academic Freedom and Tenure*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, the *Recommended Institutional Regulations on Academic Freedom and Tenure*, and the many investigations conducted by the Association into disciplinary actions by colleges and universities.

The question arises whether these customary procedures are sufficient in the current context. We believe that by and large they serve their purposes well but that consideration should be given to supplementing them in several respects:

First, plans for insuring compliance with academic norms should be enlarged to emphasize preventive as well as disciplinary action. Toward this end the faculty should take the initiative, working with the administration and other components of the institution, to develop and maintain an atmosphere of freedom, commitment to academic inquiry, and respect for the academic rights of others. The faculty should also join with other members of the academic community in the development of procedures to be used in the event of serious disruption, or the threat of disruption, and should insure its consultation in major decisions, particularly those related to the calling of external security forces to the campus.

Second, systematic attention should be given to questions related to sanctions other than dismissal, such as warnings and reprimands, in order to provide a more versatile body of academic sanctions.

Third, there is need for the faculty to assume a more positive role as guardian of academic values against unjustified assaults from its own members. The traditional faculty function in disciplinary proceedings has been to assure academic due process and meaningful faculty participation in the imposition of discipline by the administration. While this function should be maintained, faculties should recognize their stake in promoting adherence to norms essential to the academic enterprise.

Rules designed to meet these needs for faculty self-regulation and flexibility of sanctions should be adopted on each campus in response to local circumstances and to continued experimentation. In all sanctioning efforts, however, it is vital that proceedings be conducted with fairness to the individual, that faculty judgments play a crucial role, and that adverse judgments be founded on demonstrated violations of appropriate norms. The Association will encourage and assist local faculty groups seeking to articulate the substantive principles here outlined or to make improvements in their disciplinary machinery to meet the needs here described. The Association will also consult and work with any responsible group, within or outside the academic community, that seeks to promote understanding of and adherence to basic norms of professional responsibility so long as such efforts are consistent with principles of academic freedom.

Statement on Recruitment and Resignation of Faculty Members

The Statement on Recruitment and Resignation of Faculty Members, *reprinted below, was adopted by the Association of American Colleges in January, 1961, with the following reservations as set forth in a preamble prepared by that Association's Commission on Academic Freedom and Tenure:*

1. *No set of principles adopted by the Association can do more than* suggest *and* recommend *a course of action. Consequently, the present statement in no way interferes with institutional sovereignty.*

2. *The Commission realizes that the diversity of practice and control that exists among institutions of higher learning precludes any set of standards from being* universally *applicable to every situation.*

3. *The statement is concerned only with* minimum *standards and in no way seeks to create a norm for institutions at which "better" practices already are in force.*

4. *The Commission recognizes the fact that "emergency" situations will arise and will have to be dealt with. However, it urges both administration and faculty to do so in ways that will not go counter to the spirit of cooperation, good faith, and responsibility that the statement is seeking to promote.*

5. *The Commission believes that the spirit embodied in the proposed statement is its most important aspect.*

In view of these reservations, the Council of the American Association of University Professors, in April, 1961, voted approval of the Statement without adopting it as a binding obligation. Endorsement of the Statement in this form was voted by the Forty-Seventh Annual Meeting.

Mobility of faculty members among colleges and universities is rightly recognized as desirable in American higher education. Yet the departure of a faculty member always requires changes within his institution, and may entail major adjustments on the part of his colleagues, the administration, and students in his field. Ordinarily a temporary or permanent successor must be found and appointed to either his position or the position of a colleague who is promoted to replace him.

In a period of expansion of higher education, such as that already existing and promising to be even more intensified as a pattern for the coming years, adjustments are required more frequently as the number of positions and of transfers among institutions increases. These become more difficult than at other times, especially in the higher academic ranks. Clear standards of practice in the recruitment and in the resignations of members of existing faculties should contribute to an orderly interchange of personnel that will be in the interest of all.

The standards set forth below are recommended to administrations and faculties, in the belief that they are sound and should be generally followed. They are predicated on the assumption that proper provision has been made by employing institutions for timely notice to probationary faculty members and those on term appointments, with respect to their subsequent status. In addition to observing applicable requirements for notice of termination to probationary faculty members, institutions should make provision for notice to all faculty members, not later than March 15 of each year, of their status the following fall, including rank and (unless unavoidable budget procedures beyond the institution forbid) prospective salary.

1. Negotiations looking to the possible appointment for the following fall of persons who are already faculty members of other institutions, in active service or on leave-of-absence and not on terminal appointment, should be begun and completed as early as possible in the academic year. It is desirable that, when feasible, the faculty member who has been approached with regard to another position inform the appropriate officers of his institution when such negotiations are in progress. The conclusion of

a binding agreement for the faculty member to accept an appointment elsewhere should always be followed by prompt notice to his institution.

2. A faculty member should not resign in order to accept other employment as of the end of the academic year, later than May 15 or 30 days after receiving notification of the terms of his continued employment the following year, whichever date occurs later. It is recognized, however, that this obligation will be in effect only if institutions generally observe the time factor set forth in the following paragraph for new offers. It is also recognized that emergencies will occur. In such an emergency the faculty member may ask the appropriate officials of his institution to waive this requirement; but he should conform to their decision.

3. To permit a faculty member to give due consideration and timely notice to his institution in the circumstances defined in paragraph 1 of these standards, an offer of appointment for the following fall at another institution should not be made after May 1. The offer should be a "firm" one, not subject to contingencies.

4. Institutions deprived of the services of faculty members too late in the academic year to permit their replacement by securing the members of other faculties in conformity to these standards, and institutions otherwise prevented from taking timely action to recruit from other faculties, should accept the necessity of making temporary arrangements or obtaining personnel from other sources, including new entrants to the academic profession and faculty personnel who have retired.

5. Except by agreement with his institution, a faculty member should not leave or be solicited to leave his position during an academic year for which he holds an appointment.

A Report from Committee B: Late Resignation and Professional Ethics

When Committee B on Professional Ethics presented the Statement on Professional Ethics *to the Association's membership for adoption in 1966, it indicated intention of issuing occasional reports on specific problems. In accordance with that plan, the Committee has authorized the publication of this report on its current policies and procedures, particularly as they relate to the issue of late resignations.*

Of the many problems with respect to professional ethics which have been called to the attention of the Association's Washington Office, the most consistent one has been that of late resignations and a failure on a faculty member's part to give due notice of resignation as defined in the *Statement on Recruitment and Resignation of Faculty Members,* endorsed as Association policy in 1961 at the Forty-seventh Annual Meeting. Over the past five years, an average of about seven situations per year involving questions of late resignation have been reported to the Association. There has been a significant increase, since the adoption of the *Statement on Professional Ethics,* in communications from faculty members seeking advice prior to making decisions on whether to resign at a late date. There has also been an increasing number of instances in which persons raising questions in the area of late resignations have offered the Association specific evidence relating to their positions and have sought specific Association action.

The *Statement on Professional Ethics* provides that "when considering the interruption or termination of his service, he [the teacher] recognizes the effect of his decision upon the program of the institution and gives due notice of his intentions." The *Statement on Recruitment and Resignation of Faculty Members* defines due notice as "no later than May 15 or 30 days after receiving notification of the terms of his continued employment the following year, whichever date occurs later." It recognizes that emergencies may occur, in which case "the faculty member may ask the appropriate officials of his institution to waive this requirement; *but he should conform to their decision* [emphasis added]."

Committee B considers the reasonableness of prompt notice of resignation self-evident and widely recognized in the profession. It takes the need for appropriate notice most seriously. An Association which urges that faculty members be given ample notice by a university administration when their services are terminated must also make every appropriate effort to persuade faculty members to give due notice when they initiate a termination.

A faculty member who has committed his services to one academic institution and then accepts a position at another is often responding to a late offer of appointment by the other institution. The situation may be analogous to one involving a bribe; it is unethical to accept it, but equally so to offer it. The *Statement on Recruitment and Resignation of Faculty Members,* authored jointly by the American Association of University Professors and the Association of American Colleges, indicates that faculty members can be considered obligated to give due notice "only if institutions generally observe the time factor . . . for new offers" defined as follows: "To permit a faculty member to give due consideration and timely notice to his institution in the circumstances defined in . . . these standards, an offer of appointment for the following fall at another institution should not be made after May 1." Committee B regards the honoring of faculty commitments as being in frequent cases a joint responsibility of faculty members and appointing institutions. It intends to include consideration of the party or parties making late offers in its inquiries into instances of late resignation (see Statement 5 under "Policies and Procedures" below).

Committee B views the making of charges against named persons in letters directed to the Association as a serious matter. It expects, therefore, that any party making such charges will prove willing to support them by supplying evidence as requested by Committee B, so that responsible inquiries can be made.

Policies and Procedures of Committee B with Respect to the Association's *Statement on Professional Ethics*

1. Committee B reaffirms its position stated in the Introduction to the *Statement on Professional Ethics,* that questions involving propriety of conduct should normally

be handled within the framework of individual institutions by reference to a faculty group. The primary function of such faculty activity should be educative, to inform faculty, students, and administrators about principles of professional ethics and to encourage their observance. The Association, through the General Secretary and Committee B, stands ready to counsel in matters relating to such faculty function or to particular questions of professional ethics. In a breach of professional ethics deemed serious enough for the possibility of dismissal to be contemplated, the procedures followed by the institution should be in accord with the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings.*

2. The Committee does not recommend or envisage public Association censure of an individual member of the academic community because of a breach of ethics. In the area of professional ethics, where censure would normally be against an individual, it is difficult to conceive of procedures for the adequate redress of wrong and assurance of effective removal of such censure.

3. Committee B is continuing its interest in specific cases of professional ethics which do not lend themselves to resolution within the confines of the college or university where they occur.

4. In inquiring into complaints involving cases of late notice of resignation, the Committee attempts to secure full information from the parties primarily concerned, including persons making offers leading to late resignations. To the extent appropriate, the Committee communicates its views to the principal parties directly involved.

5. The Committee continues to see its own primary function as educative. It is manifestly the Committee of the Association which speaks to the individual responsibility of the members of the profession. An Association of over 90,000 members devoted to high standards of professional excellence need show no uneasiness over such a committee's role or voice, nor need administrations or governing boards find in its presence any reason to abrogate proper standards and principles of academic freedom and tenure, procedural due process, or a faculty's role in institutional government.

Joint Statement on Rights and Freedoms of Students

In June, 1967, a joint committee, comprised of representatives from the American Association of University Professors, U. S. National Student Association, Association of American Colleges, National Association of Student Personnel Administrators, and National Association of Women Deans and Counselors, met in Washington, D.C., and drafted the Joint Statement on Rights and Freedoms of Students *published below.*

Since its formulation, the Joint Statement has been endorsed by each of its five national sponsors, as well as by a number of other professional bodies. The Association's Council approved the Statement in October, 1967, and the Fifty-fourth Annual Meeting endorsed it as Association policy.

Preamble

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. Institutional procedures for achieving these purposes may vary from campus to campus, but the minimal standards of academic freedom of students outlined below are essential to any community of scholars.

Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility.

The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the academic community. Each college and university has a duty to develop policies and procedures which provide and safeguard this freedom. Such policies and procedures should be developed at each institution within the framework of general standards and with the broadest possible participation of the members of the academic community. The purpose of this statement is to enumerate the essential provisions for student freedom to learn.

I. Freedom of Access to Higher Education

The admissions policies of each college and university are a matter of institutional choice provided that each college and university makes clear the characteristics and expectations of students which it considers relevant to success in the institution's program. While church-related institutions may give admission preference to students of their own persuasion, such a preference should be clearly and publicly stated. Under no circumstances should a student be barred from admission to a particular institution on the basis of race. Thus, within the limits of its facilities, each college and university should be open to all students who are qualified according to its admission standards. The facilities and services of a college should be open to all of its enrolled students, and institutions should use their influence to secure equal access for all students to public facilities in the local community.

II. In the Classroom

The professor in the classroom and in conference should encourage free discussion, inquiry, and expression.

Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.

A. *Protection of Freedom of Expression*

Students should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

B. *Protection against Improper Academic Evaluation*

Students should have protection through orderly procedures against prejudiced or capricious academic evaluation. At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled.

C. *Protection against Improper Disclosure*

Information about student views, beliefs, and political associations which professors acquire in the course of their work as instructors, advisers, and counselors should be considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character may be provided under appropriate circumstances, normally with the knowledge or consent of the student.

III. Student Records

Institutions should have a carefully considered policy as to the information which should be part of a student's permanent educational record and as to the conditions of its disclosure. To minimize the risk of improper disclosure, academic and disciplinary records should be separate, and the conditions of access to each should be set forth in an explicit policy statement. Transcripts of academic records should contain only information about academic status. Information from disciplinary or counseling files should not be available to unauthorized persons on campus, or to any person off campus without the express consent of the student involved except under legal compulsion or in cases where the safety of persons or property is involved. No records should be kept which reflect the political activities or beliefs of students. Provisions should also be made for periodic routine destruction of noncurrent disciplinary records. Administrative staff and faculty members should respect confidential information about students which they acquire in the course of their work.

IV. Student Affairs

In student affairs, certain standards must be maintained if the freedom of students is to be preserved.

A. *Freedom of Association*

Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the academic community. They should be free to organize and join associations to promote their common interests.

1. The membership, policies, and actions of a student organization usually will be determined by vote of only those persons who hold bona fide membership in the college or university community.

2. Affiliation with an extramural organization should not of itself disqualify a student organization from institutional recognition.

3. If campus advisers are required, each organization should be free to choose its own adviser, and institutional recognition should not be withheld or withdrawn solely because of the inability of a student organization to secure an adviser. Campus advisers may advise organizations in the exercise of responsibility, but they should not have the authority to control the policy of such organizations.

4. Student organizations may be required to submit a statement of purpose, criteria for membership, rules of procedures, and a current list of officers. They should not be required to submit a membership list as a condition of institutional recognition.

5. Campus organizations, including those affiliated with an extramural organization, should be open to all students without respect to race, creed, or national origin, except for religious qualifications which may be required by organizations whose aims are primarily sectarian.

B. *Freedom of Inquiry and Expression*

1. Students and student organizations should be free to examine and discuss all questions of interest to them, and to express opinions publicly and privately. They should always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that in their public expressions or demonstrations students or student organizations speak only for themselves.

2. Students should be allowed to invite and to hear any person of their own choosing. Those routine procedures required by an institution before a guest speaker is invited to appear on campus should be designed only to insure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to an academic community. The institutional control of campus facilities should not be used as a device of censorship. It should be made clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by the sponsoring group or the institution.

C. *Student Participation in Institutional Government*

As constituents of the academic community, students should be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body should have clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs. The role of the student government and both its general and specific re-

sponsibilities should be made explicit, and the actions of the student government within the areas of its jurisdiction should be reviewed only through orderly and prescribed procedures.

D. *Student Publications*

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large.

Whenever possible the student newspaper should be an independent corporation financially and legally separate from the university. Where financial and legal autonomy is not possible, the institution, as the publisher of student publications, may have to bear the legal responsibility for the contents of the publications. In the delegation of editorial responsibility to students, the institution must provide sufficient editorial freedom and financial autonomy for the student publications to maintain their integrity of purpose as vehicles for free inquiry and free expression in an academic community.

Institutional authorities, in consultation with students and faculty, have a responsibility to provide written clarification of the role of the student publications, the standards to be used in their evaluation, and the limitations on external control of their operation. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism, such as the avoidance of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo. As safeguards for the editorial freedom of student publications the following provisions are necessary.

1. The student press should be free of censorship and advance approval of copy, and its editors and managers should be free to develop their own editorial policies and news coverage.

2. Editors and managers of student publications should be protected from arbitrary suspension and removal because of student, faculty, administrative, or public disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then by orderly and prescribed procedures. The agency responsible for the appointment of editors and managers should be the agency responsible for their removal.

3. All university published and financed student publications should explicitly state on the editorial page that the opinions there expressed are not necessarily those of the college, university, or student body.

V. Off-Campus Freedom of Students

A. *Exercise of Rights of Citizenship*

College and university students are both citizens and members of the academic community. As citizens, students should enjoy the same freedom of speech, peaceful assembly, and right of petition that other citizens enjoy and, as members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administrative officials should insure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.

B. *Institutional Authority and Civil Penalties*

Activities of students may upon occasion result in violation of law. In such cases, institutional officials should be prepared to apprise students of sources of legal counsel and may offer other assistance. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interests as an academic community are distinct and clearly involved should the special authority of the institution be asserted. The student who incidentally violates institutional regulations in the course of his off-campus activity, such as those relating to class attendance, should be subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure.

VI. Procedural Standards in Disciplinary Proceedings

In developing responsible student conduct, disciplinary proceedings play a role substantially secondary to example, counseling, guidance, and admonition. At the same time, educational institutions have a duty and the corollary disciplinary powers to protect their educational purpose through the setting of standards of scholarship and conduct for the students who attend them and through the regulation of the use of institutional facilities. In the exceptional circumstances when the preferred means fail to resolve problems of student conduct, proper procedural safeguards should be observed to protect the student from the unfair imposition of serious penalties.

The administration of discipline should guarantee procedural fairness to an accused student. Practices in disciplinary cases may vary in formality with the gravity of the offense and the sanctions which may be applied. They should also take into account the presence or absence of an honor code, and the degree to which the institutional officials have direct acquaintance with student life in general and with the involved student and the circumstances of the case in particular. The jurisdictions of faculty or student judicial bodies, the disciplinary responsibilities of institutional officials and the regular disciplinary procedures, including the student's right to appeal a decision, should be clearly formulated and communicated in advance. Minor penalties may be assessed informally under prescribed procedures.

In all situations, procedural fair play requires that the student be informed of the nature of the charges against him, that he be given a fair opportunity to refute them,

that the institution not be arbitrary in its actions, and that there be provision for appeal of a decision. The following are recommended as proper safeguards in such proceedings when there are no honor codes offering comparable guarantees.

A. *Standards of Conduct Expected of Students*

The institution has an obligation to clarify those standards of behavior which it considers essential to its educational mission and its community life. These general behavioral expectations and the resultant specific regulations should represent a reasonable regulation of student conduct, but the student should be as free as possible from imposed limitations that have no direct relevance to his education. Offenses should be as clearly defined as possible and interpreted in a manner consistent with the aforementioned principles of relevancy and reasonableness. Disciplinary proceedings should be instituted only for violations of standards of conduct formulated with significant student participation and published in advance through such means as a student handbook or a generally available body of institutional regulations.

B. *Investigation of Student Conduct*

1. Except under extreme emergency circumstances, premises occupied by students and the personal possessions of students should not be searched unless appropriate authorization has been obtained. For premises such as residence halls controlled by the institution, an appropriate and responsible authority should be designated to whom application should be made before a search is conducted. The application should specify the reasons for the search and the objects or information sought. The student should be present, if possible, during the search. For premises not controlled by the institution, the ordinary requirements for lawful search should be followed.

2. Students detected or arrested in the course of serious violations of institutional regulations, or infractions of ordinary law, should be informed of their rights. No form of harassment should be used by institutional representatives to coerce admissions of guilt or information about conduct of other suspected persons.

C. *Status of Student Pending Final Action*

Pending action on the charges, the status of a student should not be altered, or his right to be present on the campus and to attend classes suspended, except for reasons relating to his physical or emotional safety and well-being, or for reasons relating to the safety and well-being of students, faculty, or university property.

D. *Hearing Committee Procedures*

When the misconduct may result in serious penalties and if the student questions the fairness of disciplinary action taken against him, he should be granted, on request, the privilege of a hearing before a regularly constituted hearing committee. The following suggested hearing committee procedures satisfy the requirements of procedural due process in situations requiring a high degree of formality.

1. The hearing committee should include faculty members or students, or, if regularly included or requested by the accused, both faculty and student members. No member of the hearing committee who is otherwise interested in the particular case should sit in judgment during the proceeding.

2. The student should be informed, in writing, of the reasons for the proposed disciplinary action with sufficient particularity, and in sufficient time, to insure opportunity to prepare for the hearing.

3. The student appearing before the hearing committee should have the right to be assisted in his defense by an adviser of his choice.

4. The burden of proof should rest upon the officials bringing the charge.

5. The student should be given an opportunity to testify and to present evidence and witnesses. He should have an opportunity to hear and question adverse witnesses. In no case should the committee consider statements against him unless he has been advised of their content and of the names of those who made them, and unless he has been given an opportunity to rebut unfavorable inferences which might otherwise be drawn.

6. All matters upon which the decision may be based must be introduced into evidence at the proceeding before the hearing committee. The decision should be based solely upon such matters. Improperly acquired evidence should not be admitted.

7. In the absence of a transcript, there should be both a digest and a verbatim record, such as a tape recording, of the hearing.

8. The decision of the hearing committee should be final, subject only to the student's right of appeal to the president or ultimately to the governing board of the institution.

The Role of the Faculty in the Accrediting of Colleges and Universities

The Statement which follows was prepared by the Association's Committee D on Accrediting of Colleges and Universities. It was approved by the Council of the American Association of University Professors in April, 1968, and endorsed by the Fifty-fourth Annual Meeting as Association policy.

Institutional evaluation is a joint enterprise between institutions of higher education and the accrediting commissions of regional associations. For their most effective work the accrediting commissions require the cooperative effort of qualified faculty members and administrators, who should be encouraged by their colleges and universities to participate in the work of the commissions. Within a college or university, the nature of the accrediting process requires common enterprise among the faculty, the administration, and to some extent the governing board. The appraisal of the academic program should be largely the responsibility of faculty members. They should play a major role in the evaluation of the curriculum, the library, teaching loads and conditions, research, professional activities, laboratories and other academic facilities, and faculty welfare and compensation, all in relation to the institution's objectives and in the light of its financial resources. To higher education generally, faculty members may exercise a special responsibility as the segment of the educational community which is in the best position to recognize and appraise circumstances affecting academic freedom, faculty tenure, faculty role in institutional government, and faculty status and morale. This statement presents standards for the expression of faculty interest and responsibility in the accreditation process.

Recommended Standards for Institutions of Higher Education

1. Primary responsibility for the preparation of the academic aspects of the self-evaluation should rest with a committee composed largely of faculty members and responsible to the faculty as a whole. Additions or deletions should be made only after consultation with the authors of the sections of the report which are affected.

2. The self-evaluation should include a description of:
   a. Conditions of academic freedom and tenure (including provisions for due process);
   b. Conditions of faculty participation in institutional government (including provisions for the orderly handling of grievances and disputes);
   c. Faculty status and morale (including working conditions and total compensation).

Significant differences of opinion in these and other areas should be reflected in the self-evaluation.

3. The completed self-evaluation should be made available to the entire faculty prior to its submission to the accrediting commission and should be subject to amendment in the light of faculty suggestions.

4. Representative faculty, including members of appropriate faculty committees, should be available to meet with the visiting committee to discuss questions of faculty concern.

5. The report of the visiting committee should be made available to the entire faculty.

6. The faculty should be fully informed of the accrediting commission's action after an evaluation and should be kept abreast of all significant developments and issues arising between the accrediting commission and the institution. It should participate, as in the self-evaluation, in any subsequent activities regarding the institution's accreditation.

Recommended Standards for the Regional Accrediting Commissions

1. Regular visiting committees should include full-time teaching or research faculty members.

2. A formally adopted institutional policy on academic freedom and tenure, consistent with the major provisions of the 1940 *Statement of Principles on Academic Freedom and Tenure*, should be a condition for accreditation.

3. Reports by regular visiting committees should take explicit account of:
   a. Conditions of academic freedom and tenure (including provisions for due process);
   b. Conditions of faculty participation in institutional government (including provisions for the orderly handling of grievances and disputes);
   c. Faculty status and morale (including working conditions and total compensation).

The reports should describe any significant shortcomings in these areas.

4. When significant shortcomings in the areas listed above have been found, the commissions should deal with these as with similar shortcomings in other areas, endeavoring to secure improvement and applying appropriate sanctions in the absence of improvement within a reasonable time.

5. A gross violation of academic freedom, tenure, or due process should, unless promptly corrected, lead to action looking towards withdrawal of accreditation.

Statement on Faculty Workload

The Statement which follows was prepared by the Association's Committee C on Teaching, Research, and Publication. It was approved by the Council of the American Association of University Professors in October, 1969, and endorsed by the Fifty-sixth Annual Meeting as Association policy.

Introduction

No single formula for an equitable faculty workload can be devised for all of American higher education. What is fair and works well in the community college may be inappropriate for the university, and the arrangement thought necessary in the technical institute may be irrelevant in the liberal arts college.

This is not to say, however, that excessive or inequitably distributed workloads cannot be recognized as such. In response to the many appeals received in recent years, therefore, this Association wishes to set forth such guidelines as can be applied generally, regardless of the special circumstances of the institution concerned:

(1) A definition of maximum teaching loads for effective instruction at the undergraduate and graduate levels.
(2) A description of the procedures that should be followed in establishing, administering, and revising workload policies.
(3) An identification of the most common sources of inequity in the distribution of workloads.

Maximum Teaching Loads

In the American system of higher education, faculty "workloads" are usually described in hours per week of formal class meetings. As a measurement, this leaves much to be desired. It fails to consider other time-consuming institutional duties of the faculty member, and, even in terms of his teaching, it misrepresents the true situation. The teacher normally spends far less time in the classroom than in preparation, conferences, grading of papers and examinations, and supervision of remedial or advanced student work. Preparation, in particular, is of critical importance, and is probably the most unremitting of these demands: not only preparation for specific classes or conferences, but that more general preparation in the discipline, by keeping up with recent developments and strengthening his grasp on older materials, without which the faculty member will soon dwindle into ineffectiveness as scholar and teacher. Moreover, traditional workload formulations are at odds with significant current developments in education emphasizing independent study, the use of new materials and media, extracurricular and off-campus educational experiences, and interdisciplinary approaches to problems in contemporary society. Policies on workload at institutions practicing such approaches suggest the need for a more sophisticated discrimination and weighting of educational activities.

This Association has been in a position over the years to observe workload policies and faculty performance in a great variety of American colleges and universities, and in its considered judgment the following maximum workload limits are necessary for any institution of higher education seriously intending to achieve and sustain an adequately high level of faculty effectiveness in teaching and scholarship:

For undergraduate instruction, a teaching load of twelve hours per week, with no more than six separate course-preparations during the academic year.

For instruction partly or entirely at the graduate level, a teaching load of nine hours per week.

This statement of *maximum* workload presumes a traditional academic year of not more than thirty-two weeks of classes. Moreover, it presumes no unusual additional expectations in terms of research, administration, counseling, or other institutional responsibilities. Finally, it presumes also that means can be devised within each institution for determining fair equivalents in workload for those faculty members whose activities do not fit the conventional classroom lecture or discussion pattern: for example, those who supervise laboratories or studios, offer tutorials, or assist beginning teachers.

Preferred Teaching Loads

Even with the reservations just made, however, it would be misleading to offer this statement of maximum loads without providing some guidelines for a *preferable* pattern. This Association has observed in recent years a steady reduction of teaching loads in American colleges and universities noted for the effectiveness of their faculties in teaching and scholarship to norms that can be stated as follows:

For undergraduate instruction, a teaching load of nine hours per week.

For instruction partly or entirely at the graduate level, a teaching load of six hours per week.

The Association has observed also that in the majority of these institutions further reductions have become quite usual for individuals assuming heavier than normal duties in counseling, program development, administration, research, and many other activities. In a smaller number, moreover, even lower teaching loads have been established generally, for all faculty members.

It must be recognized that achievement of nine- or six-hour teaching loads may not be possible at present for many institutions. The Association believes, nevertheless, that the nine- or six-hour loads achieved by our leading colleges and universities, in some instances many years ago, provide as reliable a guide as may be found for teaching loads in any institution intending to achieve and maintain excellence in faculty performance.

Procedures

The faculty should participate fully in the determination of workload policy, both initially and in all subsequent reappraisals. Reappraisal at regular intervals is essential, in order that older patterns of faculty responsibility may be adjusted to changes in the institution's size, structure, academic programs, and facilities. Current policy and practices should be made known clearly to all faculty members, including those new to the institution each year.

The individual may have several quite different duties, some of which may be highly specialized, and the weight of these duties may vary strikingly at different times during the year. It is important, therefore, that individual workloads be determined by, or in consultation with, the department or other academic unit most familiar with the demands involved. Those responsible should be allowed a measure of latitude in making individual assignments, and care should be taken that *all* of the individual's services to the institution are considered.

Common Sources of Inequity in the Distribution of Workloads

(1) *Difficulty of Courses.* No two courses are exactly alike, and some differences between individual loads are therefore to be expected within a common twelve-hour, nine-hour, or six-hour policy. Serious inequity should be avoided, however, and the most frequent sources of difficulty are easily identified:

a. The number of different course-preparations should be considered, not only the total class hours per week.

b. Special adjustments may be appropriate for the faculty member introducing a new course or substantially revising an older course. This is a matter of institutional self-interest as well as of equity; if the new course has been approved as likely to strengthen the institution's program, all appropriate measures should be taken to insure its success.

c. Extreme differences in scope and difficulty between courses should not be overlooked merely because contention might be provoked on other less obvious imbalances. The difference in difficulty between some courses is so pronounced that no faculty member concerned would deny the existence of the discrepancy. Such imbalances may occur not only between courses in different disciplines but within the same discipline. In some subjects the advanced course is the more demanding; in others, the introductory course. One course may entail constant student consultation; another may entail a heavy burden of paperwork. At least the more obvious discrepancies should be corrected.

d. The size of the classes taught should also be considered. The larger class is not always more demanding than the smaller class; but it does not follow that the question of class size can safely be ignored. In a given institution there will be many generally comparable courses, and for these the difficulty will probably be directly proportionate to the number of students involved. In some institutions aware of this problem, faculty workload is now measured in terms of student-instruction load, or "contact hours," as well as in the conventional classroom or credit hours.

Regardless of the institution's particular circumstances, it should be possible by formal or informal means to avoid serious inequities on these four major points.

(2) *Research.* Increasingly each year, undergraduate as well as graduate institutions specify "research" as a major responsibility of the faculty. Lack of clarity or candor about what constitutes such "research" can lead to excessive demands on the faculty generally or on part of the faculty.

If the expectation is only of that "general preparation" already described, no additional reduction in faculty workload is indicated. Usually, however, something beyond that general preparation is meant: original, exploratory work in some special field of interest within the discipline. It should be recognized that if this is the expectation such research, *whether or not it leads to publication,* will require additional time. It is very doubtful that a continuing effort in original inquiry can be maintained by a faculty carrying a teaching load of more than nine hours; and it is worth noting that a number of leading universities desiring to emphasize research have already moved or are now moving to a six-hour policy.

If it is original work which is expected, but the institution fails to state candidly whether in practice scholarly publication will be regarded as the only valid evidence of such study, the effect may well be to press one part of the

faculty into "publishing research" at the expense of a "teaching research" remainder. Neither faculty group will teach as well as before.

In short, if research is to be considered a *general* faculty responsibility, the only equitable way to achieve it would seem to be a *general* reduction in faculty workload. If the expectation is that some but not all of the faculty will be publishing scholars, then that policy should be candidly stated and faculty workloads adjusted equitably in accordance with that expectation.

(3) *Responsibilities Other Than Teaching and Research.* Although faculty members expect as a matter of course to serve in student counseling, on committees, with professional societies, and in certain administrative capacities, a heavy commitment in any of these areas, or service in too many of these areas at once, will of course impair the effectiveness of the faculty member as teacher and scholar. A reduction in workload is manifestly in order when an institution wishes to draw heavily on the services of an individual in this way, or when with its approval he is engaged in community or government service. No universally applicable rule can be advanced here, but, as suggested earlier, the faculty unit responsible for individual assignments should take all such additional services into full consideration. Often, the determination of an appropriate reduction in workload depends on nothing more complex than an estimate of the hours that these additional duties will require.

On Preventing Conflicts of Interest in Government-Sponsored Research at Universities

The many complex problems that have developed in connection with the extensive sponsored research programs of the federal government have been of concern to the government, the academic community, and private industry. The Association, through its Council, and the American Council on Education, working in cooperation with the President's Science Advisor and the Federal Council of Science and Technology, in 1965 developed a statement of principles formulating basic standards and guidelines in this problem area.

An underlying premise of the statement is that responsibility for determining standards affecting the academic community rests with that community, and that conflict of interest problems are best handled by administration and faculty in cooperative effort. In addition to providing guidelines, the statement seeks to identify and alert administration and faculty to the types of situations that have proved troublesome. Throughout, it seeks to protect the integrity of the objectives and needs of the cooperating institutions and their faculties, as well as of sponsoring agencies.

The increasingly necessary and complex relationships among universities, Government, and industry call for more intensive attention to standards of procedure and conduct in Government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in them and to protect the integrity of the cooperating institutions as agencies of higher education.

The Government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements; and to assure that all individuals participating in their respective behalfs are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

A. Conflict Situations

1. *Favoring of outside interests.* When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in Government-sponsored work has a significant financial interest in, or a consulting arangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between his Government-sponsored university research obligations and his outside interests and other obligations. Situations in or from which conflicts of interest may arise are the:

a. Undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;

b. Purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;

c. Transmission to the private firm or other use for personal gain of Government-sponsored work products, results, materials, records, or information that are not made generally available. (This would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of Government-sponsored research results where there is significant additional work by the staff member independent of his Government-sponsored research);

d. Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's Government-sponsored activities. (The term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for Government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);

e. Negotiation or influence upon the negotiation of contracts relating to the staff member's Government-sponsored research between the university and private organizations with which he has consulting or other significant relationships;

f. Acceptance of gratuities or special favors from private organizations with which the university does or may conduct business in connection with a Government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring Government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. *Distribution of effort.* There are competing demands on the energies of a faculty member (for example, research, teaching, committee work, outside consulting). The way in which he divides his effort among these various functions does not raise ethical questions unless the Government agency supporting his research is misled in its understanding of the amount of intellectual effort he is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of a faculty member, since the various functions he performs are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a staff member will devote a certain fraction of his effort to the Government-sponsored research, or he agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of his involvement is to be expected. Each university, therefore, should—through joint consultation of administration and faculty—develop procedures to assure that proposals are responsibly made and complied with.

3. *Consulting for Government agencies or their contractors.* When the staff member engaged in Government-sponsored research also serves as a consultant to a Federal agency, his conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the President's memorandum of May 2, 1963, *Preventing Conflicts of Interest on the Part of Special Government Employees.* When he consults for one or more Government contractors, or prospective contractors, in the same technical field as his research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on his other interests. In undertaking and performing consulting services, he should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict of interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the Government agency or its contractor of some technical aspect of the work of another organization with which he has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

B. University Responsibility

Each university participating in Government-sponsored research should make known to the sponsoring Government agencies:

1. The steps it is taking to assure an understanding on the part of the university administration and staff members of the possible conflicts of interest or other problems that may develop in the foregoing types of situations, and

2. The organizational and administrative actions it has taken or is taking to avoid such problems, including:

a. Accounting procedures to be used to assure that Government funds are expended for the purposes for which they have been provided, and that all services which are required in return for these funds are supplied;

b. Procedures that enable it to be aware of the outside professional work of staff members participating in Government-sponsored research, if such outside work relates in any way to the Government-sponsored research;

c. The formulation of standards to guide the individual university staff members in governing their conduct in relation to outside interests that might raise questions of conflicts of interest; and

d. The provision within the university of an informed source of advice and guidance to its staff members for advance consultation on questions they wish to raise concerning the problems that may or do develop as a result of their outside financial or consulting interests, as they relate to their participation in Government-sponsored university research. The university may wish to discuss such problems with the contracting officer or other appropriate Government official in those cases that appear to raise questions regarding conflicts of interest.

The above process of disclosure and consultation is the obligation assumed by the university when it accepts Government funds for research. The process must, of course, be carried out in a manner that does not infringe on the legitimate freedoms and flexibility of action of the university and its staff members that have traditionally characterized a university. It is desirable that standards and procedures of the kind discussed be formulated and administered by members of the university community themselves, through their joint initiative and responsibility, for it is they who are the best judges of the conditions which can most effectively stimulate the search for knowledge and preserve the requirements of academic freedom. Experience indicates that such standards and procedures should be developed and specified by joint administrative-faculty action.

Statement on Instructional Television

The following Statement on Instructional Television *was prepared by Committee C on Teaching, Research, and Publication. It was approved by the Council of the American Association of University Professors in May, 1969, and endorsed by the Fifty-fifth Annual Meeting of the Association.*

Preamble

Televised instruction may be by recording, live performance, or a mixture of the two, and may be broadcast or presented on a closed circuit. In closed-circuit transmission, the instructional program is usually received on television monitors in viewing rooms within the institution. Broadcasting is often designed for the general public or off-campus students as well as students located on campus, and may include programs of cultural enrichment ("educational television") as well as programs offered for course credit or in other ways directly supporting the educational objectives of the institution ("instructional television").

Both recorded and live performances, whether broadcast or presented on closed circuit, may involve special legal or administrative problems. Recording, for example, is often technically and administratively simpler than actual performance, but may require the consideration of additional questions of copyright, not only for materials previously protected but also for materials created expressly for the new program. Closed-circuit television is more suitable than general broadcasting for use as a supplement in regular course instruction; its use, however, raises questions of the appropriate distribution of authority and responsibility between the administration and the separate departments or programs within a given institution. Broadcasting is technically more complex, more expensive, and directed to a wider audience, and it is under the regulation of the Federal Communications Commission; for all these reasons, it is likely to entail a more elaborate organizational pattern than that required for closed-circuit instruction, with a greater measure of autonomy for the technical and producing staff and a larger expenditure of time and resources on extra-institutional goals.

More important, the development of instructional television has brought into being conditions never envisaged in the earlier academic tradition, raising many basic questions about standards for teaching and scholarship. Six of these altered conditions deserve special mention here. One is that the teacher typically does not have the usual face-to-face relationships with the student in or outside the classroom. Another is that special means must be devised for assigning, guiding, and evaluating the work of students. A third is that the teacher is using a means of communication dependent upon an extremely complex and expensive apparatus which is not under his exclusive control and which requires for its operation special technical knowledge. A fourth is that the teacher's lectures and demonstrations can be recorded and reused without the teacher's being present. A fifth is that the teacher's rights, whether academic or legal, are imperfectly understood. And a sixth is that little careful attention has been given to the question of the faculty's authority in determining policies and procedures for the use of television in the institutional program.

It is imperative, therefore, that institutions now using or planning to use television as an incidental or integral part of their programs should give full consideration to the educational functions which the new medium is intended to perform and to the specific problems which any given application will raise. Traditional principles of sound academic procedure will often apply to the new medium, either directly or by extension, but they will not always cover the new problems. When they fail to do so, new principles must be developed by means of which the new medium may be made to serve most effectively the basic, continuing educational objectives of our colleges and universities. It is the purpose of this Statement to offer some appropriate guidelines to this end.

Principles

General

The use of television in teaching should be for the purpose of advancing the basic functions of colleges and universities to preserve, augment, criticize, and transmit

knowledge and to foster the student's ability to learn. The development of institutional policies concerning instructional television as an instrument of teaching and research is therefore the responsibility of the academic community.

Usually no restriction should be placed by the institution on a faculty member's occasional activities in commercial television. Such activities should be sufficiently limited so that they do not interfere with his obligations as a faculty member to his institution. In the event that there are sufficient reasons for his greater involvement in commercial television, he should make appropriate arrangements, such as for reduced teaching load and compensation or a leave of absence, in accordance with governing academic principles.

Areas of Responsibility

The governing board, administration, faculty, and students all have a continuing concern in determining the desirability and feasibility of television as an educational instrument. Institutional policies on instructional television should define the respective areas of responsibility for each group in terms of the particular competence for the functions which that group undertakes. In developing these policies, all four groups should bear in mind that television is one educational means among many, and not an end in itself, for carrying out the basic functions of a college or university.

Faculty Responsibility

The faculty should have primary responsibility for determining the instructional television policies of the institution. The responsibility should be conferred and defined by regulations promulgated by the governing body. The rules governing instructional television should be approved by vote of the faculty concerned or by a representative faculty body, officially adopted by the appropriate authority, and published.

The departmental faculty should determine the extent to which closed-circuit television should be used, and the manner of its use, in resident instruction. Such departmental practices should conform to institutional policies.

Courses to be given for credit by television broadcast, whether for resident or extension credit, should be considered and approved by the faculties of the department, division, school, college, or university or by such representatives of these bodies as pass upon curricular matters generally. These provisions should apply to courses whether given by actual (live) performance or by recordings.

The faculty should determine the amount of credit which may be earned by a student toward a degree in courses given by television broadcast.

The faculty of the college or university should establish general rules and procedures for the granting of teaching load credit in the preparation and the offering of courses by television broadcast and for the allocation of supporting resources. Within the general provisions of these governing regulations, specific arrangements for courses offered by its members should be made within the department.

Adequate preparation for a television course, whether by live broadcast or recording, requires considerable time and effort for the writing and revision of scripts, planning of course assignments and tests, participation in rehearsals, and the distribution of informational materials to students. The teacher may, therefore, need to devote full time for the period of a term or more to these activities. While the course is being given, the demands on the teacher include not only appearances before the camera but also communications and conferences with students, evaluation of their work, keeping of course records, and also supervision of academic and clerical assistants. In some circumstances, accordingly, a one-semester course may constitute a full year's load for the teacher.

Adequate support in the form of academic and clerical assistance, facilities for communicating and conferring with students, library resources, and an operating budget should be provided the teacher so that he may adequately carry out his instructional responsibilities. Since instruction by television does not allow for an exchange of reactions between students and teacher in the normal classroom setting, adequate provisions should be made for the students to confer with the teacher, or his academic assistant, by correspondence or personal conference.

The faculty should make certain that live or recorded programs which are prepared by the institution for other colleges and universities, whether for course credit or not, meet the same standards of appropriateness and excellence as those prepared for use in its own institution.

Courses prepared by the institution for elementary and secondary schools should meet the academic standards set by the faculties of the disciplines concerned.

Whenever possible, the faculty should give encouragement to television programs of cultural enrichment addressed to the general public as well as to its own students.

Teaching Appointments

The precise terms and conditions of every appointment should be stated in writing and be in the possession of the faculty member and the institution before the appointment to participate in instruction by television is consummated.

No member of the faculty should be required to participate in instructional television as teacher, writer, consultant, or in any other capacity unless he consents in advance to such participation. A newly appointed member of the faculty should not be required to participate in instructional television unless he has agreed to do so as a condition of his appointment.

Academic Freedom

A faculty member engaged in instructional television is entitled to academic freedom as a teacher, researcher, and citizen in accordance with the provisions of the 1940 *Statement of Principles on Academic Freedom and Tenure*, jointly developed by the Association of American Colleges and the American Association of University Professors and endorsed by many educational and professional organizations.

Because television production is a form of publication,

a faculty member has the same freedom to enter into an agreement with an educational or commercial agency to produce, or otherwise participate in, a television program as he has in arranging for the publication of his own writings with a commercial, university, or other nonprofit press or with a scholarly or professional journal.

Selection of Materials

The teacher should have the same full responsibility for the selection and presentation of materials and of points of view in courses offered by television as he has in those given by traditional means. For departmental and interdepartmental projects the faculty concerned should share this responsibility.

Technical Considerations

A faculty member who undertakes to teach by television should acquaint himself with the rudiments of the technical procedures in recording and live performance as they relate to his own professional activity so that his subject matter may be most effectively presented, and he should cooperate with the producer and other members of the production staff in every reasonable way. The teacher, nevertheless, has the final responsibility for the content and objectives of the program.

Proprietary Rights and Educational Policies

To protect the interests of the individual creators and the educational objectives of the institution, the faculty should establish and publish appropriate guiding policies and procedures. Explanations should be provided for faculty members unfamiliar with copyright law.

These policies should include provisions for appropriate compensation to the creator for his original production and for its reuse when recorded.

Provision should also be made so that the original teacher-creator, or an appropriate faculty body, can exercise control of the future use and distribution of a recorded television course and can initiate periodic reviews to determine whether the course should be revised or withdrawn from instructional use because of obsolescence.

No recording of a teacher's presentation in the traditional classroom setting, whether for reuse on instructional television or for any other purpose, should be made without his prior knowledge and consent.

A recorded program of instruction is an academic document. Hence, like any other scholarly work, it should bear the name of its author, his institutional affiliation, the date when it was recorded, and appropriate acknowledgments.

Statement on Teaching Evaluation

The Statement which follows was prepared by the Association's Committee C on College and University Teaching, Research, and Publication. It was approved by the Council of the American Association of University Professors in June, 1975, and endorsed by the Sixty-first Annual Meeting as Association policy.

In response to a chronic need for arriving at fair judgments of a faculty member's teaching, the Association sets forth this statement as a guide to proper teaching evaluation methods and their appropriate uses in personnel decisions. This statement confines itself to the teaching responsibilities of college and university professors, and is not intended as the definitive statement on reviewing and weighing all aspects of a faculty member's work. In addressing itself to teaching, the statement has no intention of minimizing the importance of other faculty responsibilities. There is a need for assessment of a teacher's scholarship both more precise and more extensive than commonly employed. There is a need to define service and the value attached to it as well as to review carefully the kind and quality of service performed by faculty members. Additional guidance in the complex task of reviewing faculty services is to be found in other Association documents: the *Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*, the *Statement on Government of Colleges and Universities*, the *Statement on Faculty Workload*, and the *Recommended Institutional Regulations on Academic Freedom and Tenure*.

Statement

Colleges and universities properly aspire to excellence in teaching. Institutional aspirations, however, have not often led to practices which clearly identify and reward teaching excellence, and the quality of teaching is not in fact the determining factor in many decisions on retention, promotion, salary, and tenure. The aspirations of faculty members are often frustrated because they must wrestle with diverse obligations—commonly identified as *teaching*, *research*, and *service*—placed upon them by the profession at large, the scholarly discipline, the institution, and their own varied interests. Establishing a positive relationship between the institution's and department's aspirations and the individual's competencies and aims is one outcome of fair and thorough faculty review procedures.

Institutional Values and Policies

Making clear the expectations the institution places upon the teacher and providing the conditions and support necessary to excellent teaching are primary institutional obligations. It is a first order of business that institutions declare their values and communicate them with sufficient clarity to enable colleges and departments to set forth specific expectations as to *teaching*, *research*, and *service*, and to make clear any other faculty obligations. Both institution-wide and college or department policies on promotion, salary, and tenure should be written and subject to periodic review, a process in which faculty members must play a central part.

Expectations, Criteria, and Procedures

At the college or department level, the expectations as to teaching, the weighting of teaching in relation to other expectations, and the criteria and procedures by which the fulfillment of these expectations is to be judged should be put in writing and periodically reviewed by all members of the college or department. This policy statement should specify the information which is to be gathered for all faculty members, the basic procedures to be followed in gathering it, and the time schedule for various aspects of the review process. Such information should include first-hand data from various sources, including students, and should emphasize the primacy of faculty colleague judgments of teaching effectiveness at the first level of review and recommendation.

Adequate Evaluation Data

Casual procedures, a paucity of data, and unilateral judgments by department chairmen and deans too often characterize the evaluation of teaching in American colleges and universities. Praiseworthy and systematic efforts to improve teaching evaluation have moved toward identifying characteristics of effective teaching and recognizing and weighting the multiple aspects of an individual teacher's performance. A judicious evaluation of a college professor as teacher should include (1) an accurate factual description of what an individual does as teacher, (2) various measures of the effectiveness of these efforts, and (3) fair consideration of the relation between these efforts and the institution's and department's expectations and support.

An important and often overlooked element of evaluating teaching is an accurate description of a

professor's teaching. Such a description should include number and level and kinds of classes taught, numbers of students and out-of-class activities related to teaching. Such data should be very carefully considered both to guard against drawing unwarranted conclusions and to increase the possibilities of fairly comparing workloads and kinds of teaching, of clarifying expectations, and of identifying particulars of minimum and maximum performance. Other useful information might include evidence of the ability of a teacher to shape new courses, to reach different levels and kinds of students, to develop effective teaching strategies, and to contribute to the effectiveness of the individual's and the institution's instruction in other ways than in the classroom.

The gathering of such data can promote a careful consideration of both the institution's and department's values. If a department, for example, places great value upon teaching large numbers of lower level students, that value should be reflected in the judgments about teachers who perform such tasks effectively. Too often, even at the simple point of numbers and kinds of students taught, departments and institutions operate on value assumptions seldom made clear to the faculty.

Another kind of data which should be systematically gathered and examined by the teacher's colleagues includes course outlines, tests, materials, and methods employed in instruction. Care should be taken that such scrutiny not inhibit the teacher, limit the variety of effective teaching styles, or discourage purposeful innovation. Evidence of a concern for teaching and teaching competence demonstrated in publications, attendance at meetings, delivery of lectures, and consulting should also be included among the essential information to be reviewed.

Assessing the Effectiveness of Instruction

Student Learning

Evaluation of teaching usually refers to efforts made to assess the effectiveness of instruction. The most valid measure is probably the most difficult to obtain, that is, the assessment of a teacher's effectiveness on the basis of the learning of his students. On the one hand, a student's learning is importantly influenced by much more than an individual teacher's efforts. On the other, measures of before-and-after learning are difficult to find, control, or derive comparisons from. From a practical point of view, the difficulties of evaluating college teaching on the basis of changes in student performance limit the use of such a measure. The difficulties, however, should not rule out seeking reliable evidence of this kind.

Teaching Performance

Evaluating teaching on the basis of teaching performance also presents difficulties in measurement, but the large body of research into the reliability and validity of carefully applied performance measures supports the practical usefulness of these data. Data on teaching performance commonly come from trained observers, faculty colleagues, and students. The booklet, *The Recognition and Evaluation of Teaching*, available from the Association, offers an extensive bibliography and useful guidance in gathering data from these sources.

Student Perceptions

Student perceptions are a prime source of information from those who must be affected if learning is to take place. Student responses can provide continuing insights into a number of the important dimensions of a teacher's efforts: classroom performance, advising, informal and formal contacts with students outside of class. A variety of ways are available to gather student opinion, ranging from informal questioning of individual students about details of a specific course to campus-wide questionnaires.

Faculty members should be meaningfully involved in any systematic efforts to obtain student opinion. Cooperation among students, faculty, and administration is necessary to secure teaching performance data which can be relied upon. There is no one questionnaire or method suitable to every department or institution. Different kinds of questionnaires can be useful in assessing different kinds of courses and subject matters and to meet the need for information of a particular kind. However, a common instrument covering a range of teachers, departments, and subject matter areas has the great advantage of affording meaningful comparative data. The important consideration is to obtain reliable data over a range of teaching assignments and over a period of time. Evaluations in which results go only to the individual professor may be of use in improving an individual teacher's performance, but they contribute little to the process of faculty review. Student input need not be limited by course evaluations. Exit interviews, questionnaires to alumni, and face-to-face discussion are other ways in which student feedback can be profitably gathered.

Classroom Visitation

Because of the usefulness of having firsthand information about an individual's teaching effectiveness, some institutions have adopted a program of classroom visitation. There are various ways of having colleagues visit classrooms, but such visits do not necessarily yield reliable data. Careful observations over a period of time may, however, be useful in evaluating instruction and in fostering effective teaching. Clearly, there must be an understanding among the visitors and the visited upon such matters as who does the visiting, how many visits are made, what visitors look for, what feedback is given to the visited, and what other use is made of the information.

Self-Evaluation

Some institutions draw upon self-evaluation as an element in evaluating teaching. The limitations on self-evaluation are obvious, and neither the teacher nor the institution should be satisfied with self-evaluation

alone. However, faculty members as individuals or as members of committees can assist colleagues in making the kind of self-evaluation which constitutes a contribution to improving and evaluating teaching. Arousing an interest in self-examination, structuring self-evaluations so that they might afford more reliable data, and giving faculty members the opportunity to assess their own teaching effectiveness and to add their own interpretation of student ratings and classroom visitations can increase the usefulness of self-evaluation as a part of the review process.

Outside Opinions

Some institutions seek outside opinions and judgments as to a professor's competence. Reliable outside judgments about an individual's teaching, however, are difficult to secure. It would be a mistake to suppose that a college teacher's scholarly reputation is an accurate measure of his teaching. Visiting teams from the outside, given ample time to observe the teacher, to talk with students, and to examine relevant data, might prove a useful, though expensive, means of improving the quality of evaluation. Information and opinions from faculty members in other departments and from persons outside the university should be sought when an individual's teaching assignment and the informant's firsthand knowledge appear to justify their use.

Procedures

The emphasis in evaluation should be upon obtaining firsthand evidence of teaching competence, which is most likely to be found among the faculty of a department or college and the students who receive instruction. Evaluation of teaching in which an administrator's judgment is the sole or determining factor is contrary to policies set forth in the *Statement on College and University Government*.

The institution's commitment to teaching should be manifested in concrete ways. For example, some institutions have adopted policies which make recommendations for promotion unacceptable unless they provide strong and convincing evidence of teaching competence. Combining the systematic evaluating of teaching with direct efforts to assist teachers in developing their effectiveness is another example of institutional commitment. It is the responsibility of the institution and the colleges, departments, or other instructional divisions to establish and maintain written policies and procedures which insure a sound basis for individual judgments fairly applied to all.

Faculty members should have a primary though not exclusive role in evaluating an individual faculty member's performance as teacher. Factual data, student opinion, and colleague judgments should be central in the formal procedures for review which should involve faculty discussion and vote. Those being evaluated should be invited to supply information and materials relevant to that evaluation. If the department has not constituted final authority, the faculty's considered judgment should constitute the basic recommendation to the next level of responsibility, which may be a college-wide or university-wide faculty committee. If the chairman's recommendation is contrary to that of the faculty, the faculty should be informed of the chairman's reasons prior to the chairman's submitting his and the faculty's recommendations and should be given an opportunity to respond to the chairman's views.

The dean's function, where separate from a department chairman's or division head's, is typically that of review and recommendation either in the dean's own person or through an official review body at that level. If the recommendation at this level is contrary to that of the department chairman or faculty, opportunity should be provided for discussion with the chairman or faculty before a formal recommendation is made.

Final decisions should be made in accordance with the *Statement on Government of Colleges and Universities*: "The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with faculty judgment except in rare instances and for compelling reasons which should be stated in detail." Procedures in accordance with the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* and the *Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* should be provided to handle faculty grievances arising from advancement recommendations.

Some Further Implications

The responsible evaluation of teaching does not serve advancement procedures alone. It should be wisely employed for the development of the teacher and the enhancement of instruction. Both of these aims can be served by the presence of a faculty committee charged with the overall responsibility of remaining conversant with the research in evaluating teaching and of providing assistance in maintaining sound policies and procedures in reviewing faculty performance. The full dimensions of teaching should not be slighted in the desire to arrive at defensible data and systematic practices. Though teaching can be considered apart from scholarship and service, the general recognition of these three professional obligations suggests that the relationships are important. The kind of teaching which distinguishes itself in colleges and universities is integral with scholarship, has a way of getting outside classroom confines, may exemplify the highest meaning of service. A judicious evaluation system would recognize the broad dimensions of teaching, be sensitive to different kinds and styles of instruction, and be as useful in distinguishing superior teaching from the merely competent as in identifying poor teaching.

Statement of Principles on Academic Retirement and Insurance Plans

The Statement which follows was prepared by a joint committee of the American Association of University Professors and the Association of American Colleges. The Statement was adopted in January, 1969, by the Association of American Colleges. It was adopted by the Council of the American Association of University Professors in May, 1969, and endorsed by the Fifty-fifth Annual Meeting as Association policy.

The purpose of an institution's retirement policy for faculty members and administrators and its program for their insurance benefits and retirement annuities should be to help educators and their families withstand the financial impacts of illness, old age, and death and to increase the educational effectiveness of the college and university. This policy and program should be designed to attract individuals of the highest abilities to educational work, to sustain the morale of the faculty, to permit faculty members to devote their energies with singleness of purpose to the concerns of the institution and the profession, and to provide for the orderly retirement of faculty members and administrators.

The following practices are recommended:

1. The retirement policy and annuity plan of an institution, as well as its insurance plans, should:

   a. Be clearly defined and easily understandable by both the faculty and the administration of the institution. When the age of retirement is fixed, the faculty member or administrator should be reminded of his approaching retirement at least one year prior to the date on which it is to become effective. When the retirement age is flexible, he should be informed of his impending retirement at least six months prior to the date on which it is to occur, except that if he is to be retired as early as age 65, this period should be at least one year.

   b. Take into account the old age, survivor, disability, and medical benefits of federal Social Security and other applicable public programs.

   c. Permit mobility of faculty members and administrators among institutions without loss of accrued retirement benefits and with little or no gap in annuity and insurance plan participation.

   d. Be reviewed periodically by faculty and administration of the institution, with appropriate recommendations to the institution's governing board, to assure that the plans continue to meet the needs, resources, and objectives of the institution and the faculty.

2. Retirement should normally occur at the end of the academic year in which the faculty member or administrator reaches the age specified for retirement by his institution's plan. Each institution should make clear whether, for these purposes, the summer period attaches to the preceding or the forthcoming academic year. Retirement provisions currently in effect at different institutions vary in the age specified for retirement and in the degree of flexibility relating to extensions of active service. Cogent arguments can be advanced in support of a number of these arrangements. Since conditions vary greatly among institutions, however, no universally applicable formula can be prescribed. Plans in which the retirement age falls within the range of 65 to 70 appear to be in conformity with reasonable practice.

   Where the institution has a flexible plan that provides for extension of service beyond its base retirement age, extensions should be by annual appointment and ordinarily should not postpone retirement beyond the end of the academic year in which age 70 is attained. Such extensions should be made upon recommendation of representatives of the faculty and administration through appropriate committee procedures that assure full protection of academic freedom. Representatives of the faculty should be chosen in accordance with procedures adopted by the faculty for committee appointment. (This also applies to the responsibilities noted in 1d, 3, and 4.)

3. Circumstances that may seem to justify a faculty member's retirement before the base retirement age in a flexible plan or the stated age in a fixed plan, or his disassociation from the institution for reasons of disability, should in all cases be considered by representatives of the faculty and administration through appropriate committee procedures. Where issues of tenure are involved in a case

of retirement before the base retirement age in a flexible plan or the stated age in a fixed plan, standard procedures of due process should be available.

4. The retirement age for faculty may differ from the age for retirement from administrative duties. Cessation of administrative duties, however, with assignment of teaching responsibilities only, is not interpreted as a retirement.

5. The recall of faculty members from retired status to full or part-time activity should be by annual appointment upon recommendation of representatives of the faculty and administration through appropriate committee procedures. Such recall should be rare; expected duties should be clearly defined; and full-time service should be arranged only in unusual circumstances.

6. Between the ages of 60 and retirement, faculty members should be permitted to arrange, on their own initiative, reductions in salary and services acceptable both to them and to their institutions. Such reductions in salary and services should occur without loss of tenure, rank, or eligibility for benefit-plan participation.

7. The institution should provide for a plan of retirement annuities. Such a plan should:

a. Require participation after not more than one year of service by all full-time faculty members and administrators who have attained a specified age, not later than 30.

b. Be financed by contributions made during each year of service, including leaves of absence with pay, with the institution contributing as much as or more than each participant. Moreover, an institution's retirement plan should be so organized as to permit voluntary annuity contributions from employees on leaves of absence without pay. In order that participants in a contributory plan may have the tax treatment of a noncontributory plan available to them, the individual should have the option to make his required contributions by salary reduction in accordance with relevant tax laws.

c. Maintain contributions at a level considered sufficient to give the long-term participant a retirement income that is appropriately related to his level of income prior to retirement, with provision for continuing more than half of such retirement income to a surviving spouse. The recommended objective for a person who participates in the plan for 35 or more years is an after-tax retirement income including federal Social Security benefits equivalent in purchasing power to approximately two thirds of the yearly disposable income realized from his salary after taxes and other mandatory deductions during his last few years of full-time employment.

d. Ensure that the full accumulations from the individual's and the institution's contributions are fully and immediately vested in the individual, available as a benefit in case of death before annuity payments commence, and with no forfeiture in case of withdrawal or dismissal from the institution.

e. Be such that the individual may withdraw the accumulated funds only in the form of an annuity. To avoid administrative expense, exception might be made for very small accumulations in an inactive account.

8. The institution should help retired faculty members and administrators remain a part of the institution, providing, where possible, such facilities as: a mail address, library privileges, office facilities, faculty club membership, the institution's publications, secretarial help, administration of grants, laboratory rights, faculty dining privileges, and participation in convocations and academic processions. Institutions that confer the emeritus status should do so in accordance with standards determined by the faculty and administration.

9. When a new retirement policy or annuity plan is initiated or an old one changed, reasonable transition provisions, either by special financial arrangements or by the gradual inauguration of the new plan, should be made for those who would otherwise be adversely affected.

10. The institution should maintain a program of group insurance financed in whole or in part by the institution and available to faculty members and administrators as soon as practicable after employment. The program should continue all coverages during leave of absence with pay, and during leave without pay unless equally adequate protection is otherwise provided for the individual. The program should include:

a. Life insurance providing a benefit considered sufficient to sustain the standard of living of the staff member's family for at least one year following his death. Where additional protection is contemplated, the special financial needs of families of younger faculty members should receive particular consideration.

b. Insurance for medical expenses, with emphasis upon protection against the major expenses of illness or injury in preference to minor expenses that cause no serious drain on a family's budget. Such insurance should continue to be available through the institution (1) for the retired staff member and spouse, and (2) for the surviving spouse who does not remarry and dependent children of an active or retired staff member who dies while insured.

c. Insurance providing a monthly income for staff members who remain totally disabled beyond the period normally covered by salary continuation or sick pay. For a person who has been disabled six months or more, the plan should provide an after-tax income including federal Social Security benefits equivalent in purchasing power to approximately two thirds of the income he realized after taxes and mandatory deductions prior to his disability. Such income should continue during total disability for the normal period of employment at the institution, with adequate provision for a continuing income throughout the retirement years.

Statement of Principles on Leaves of Absence

The following Statement, proposed by a special committee of the American Association of University Professors and the Association of American Colleges, was first published in the Winter, 1971, Bulletin, *with an invitation for comments from members and chapters. The Statement was adopted by the Association of American Colleges at its Annual Meeting in January, 1972. In May, 1972, it was approved by the Council and endorsed by the Fifty-eighth Annual Meeting as the policy of the American Association of University Professors.*

Purposes

Leaves of absence are among the most important means by which a faculty member's teaching effectiveness may be enhanced, his scholarly usefulness enlarged, and an institution's academic program strengthened and developed. A sound program of leaves is therefore of vital importance to a college or university, and it is the obligation of every faculty member to make use of available means, including leaves, to promote his professional competence. The major purpose is to provide opportunity for continued professional growth and new, or renewed, intellectual achievement through study, research, writing, and travel. Leaves may also be provided in appropriate circumstances for projects of direct benefit to the institution and for public or private service outside the institution.[1] Leaves should also be granted for illness, recovery of health, and maternity.

Development of Leave Policies

Leave policies and procedures should be developed with full faculty participation. Faculty members, acting through appropriate representatives, should also have a key role in the selection of the recipients of individual leaves. The institution and the individual faculty member have a common responsibility for endeavoring to achieve the objective of the leave program—the institution by establishing an effective program, the faculty member by making appropriate use of it. Leave policies should be flexible enough to meet the needs of both the individual and the institution.

Eligibility and Procedures

The purpose of a leave program is to promote the professional development of all faculty members—those who are likely to stay at the institution for a long period but also, although not necessarily to the same degree, those for whom there is no such assurance.

Previous service and leaves at other institutions should be taken into consideration in determining eligibility for leave. Persons nearing retirement should be eligible for leave with pay if it is clear that the leave will achieve its purposes both for the individual and the institution.

For a nontenured faculty member on scholarly leave for one year or less, the period of leave should count as part of the probationary period as if it were prior service at another institution.[2] Exceptions to this policy should be mutually agreed to in writing prior to the leave.

A faculty member should apply for leave at a reasonable time in advance and through established procedures,

[1] Leave for the purpose of engaging in political activity is discussed in the "Statement on Professors and Political Activity," *AAUP Bulletin*, Autumn, 1969, pp. 388-389.

[2] Credit for prior service toward fulfillment of the probationary period is discussed in the "1940 Statement of Principles on Academic Freedom and Tenure," *AAUP Bulletin*, Summer, 1974, pp. 269-272. *Cf.* the section of Academic Tenure, paragraph a.2.

so that the institution can more readily care for his work in his absence and so that he can plan to make the best use of his opportunity. All evidence that the leave will increase individual effectiveness or produce academically or socially useful results should be considered in evaluating applications. A leave may either involve specialized scholarly activity or be designed to provide broad cultural experience and enlarged perspective. Administrators and faculty agencies concerned with implementation of leave policies may reasonably require the individual to submit such advance plans as are likely to assure productive results.

Individual and Institutional Obligations

A faculty member has an obligation to return for further service following leave of absence when the circumstances of granting the leave indicate that this is the equitable action, as is often the case when leave with pay is granted. He should of course honor an agreement to return to the institution, unless other arrangements are mutually agreed upon. The precise terms of the leave of absence should be in writing and should be given to the faculty member prior to the commencement of the leave.

Even when there is no obligation to return, the faculty member who resigns while on leave should give notice according to accepted standards. Moreover, a college or university should not knowingly invite a person to join its staff at a time when the individual cannot properly accept the invitation. In most instances, an institution which invites a faculty member to accept a new appointment while on leave should feel obliged to pay at least a portion of the cost of the leave.

Frequency and Duration of Leaves

Leaves should not be considered as deferred compensation to which a faculty member is entitled no matter what other opportunities he may have had for professional development. They should, however, be provided with reasonable frequency and preferably be available at regular intervals because they are important to the continuing growth of the faculty member and the effectiveness of the institution.

Ordinarily, leaves of absence, whatever the source of funding, should not be more than one year in length, but exceptions to this rule should be possible in cases involving health, public service, overseas appointments, or other special circumstances.

Financial Arrangements

Leaves of one semester at full salary or an academic year at half salary are commonly provided. The institution is not obliged to assume the financial burden of all types of leaves. It does have the obligation, however, to use its own leave funds in such a manner as to balance the opportunity for professional development among and within academic fields.

Whatever the source of funding, the amount paid to the person on leave should not depend on the cost of caring for his work in his absence, nor should a leave of absence of a year or less interfere with the opportunity for promotion or increase in salary.

Continuous coverage under various types of insurance programs should be provided while a faculty member is on leave. When the faculty member is on leave with pay, both the institution and the individual should continue contributions toward his retirement annuity.

If a faculty member, on leave without pay, takes a temporary but full-time appointment at another institution or organization, it is reasonable to expect the appointing institution or organization to assume the cost of institutional contributions to the individual's retirement annuity and group insurance programs.

Foundations, government agencies, and other organizations supporting leaves for scholarly purposes should include in their grants an amount sufficient to maintain institutional annuity and group insurance contributions as well as salaries.

Leaves of Absence for Child-bearing, Child-rearing, and Family Emergencies

The Statement which follows was prepared by the Association's Committee W on the Status of Women in the Academic Profession. It was approved by the Council of the American Association of University Professors in April, 1974, and endorsed by the Sixtieth Annual Meeting as Association policy.

Introduction

The joint *Statement of Principles on Leaves of Absence*, adopted in 1972 by the American Association of University Professors and the Association of American Colleges, recommends that leaves of absence be granted for professional growth and intellectual achievement, for public or private service outside the institution, and for "illness, recovery of health, and maternity." The following statement on *Leaves of Absence for Child-bearing, Child-rearing, and Family Emergencies*, prepared by Committee W on the Status of Women in the Academic Profession, supplements and amplifies this last provision of the *Statement of Principles on Leaves of Absence*.

Purpose of the Leaves

Committee W recommends that colleges and universities provide leaves of absence to faculty members for child-bearing, child-rearing, and family emergencies. Such leaves are to assist faculty members with parental responsibilities in meeting their obligations both to their professional careers and to their families, and to prevent the loss to the institution and to the academic community of substantial professional skills.

Career patterns of academic men and women vary. Academic women differ in their desire to continue or to interrupt their professional careers during the child-bearing and child-rearing years. Couples differ in the extent to which they wish to share family responsibilities. Some faculty members may wish to take a leave of absence from their professional positions to care for their children, others wish to combine parental and professional responsibilities, while still others prefer to retain their professional affiliation on a full-time basis throughout their child-bearing and child-rearing years.

An institution's policies on faculty appointments should be sufficiently flexible to permit faculty members to combine family and career responsibilities in the manner best suited to them as professionals and parents. This flexibility requires the availability of such alternatives as longer-term leaves of absence, temporary reductions in workload with no loss of professional status, and retention of full-time affiliation throughout the child-bearing and child-rearing years.

Institutional policies which require the termination of the appointment of a woman faculty member because she becomes pregnant penalize the individual unfairly. Moreover, policies which mandate the timing and duration of a leave of absence for pregnancy and childbirth do not take cognizance of particular medical needs or individual circumstances. Institutions which customarily or by policy allow paid absences for illness or temporary disability, but which deny equivalent absences for disabilities resulting from pregnancy or childbirth, discriminate against women.[1] Allowing leaves of absence for illness or temporary disability only in cases where faculty members are themselves ill or temporarily disabled disregards the need to provide short-term care for family members in serious emergencies. In addition, it

[1] See the 1972 Sex Discrimination Guidelines of the Equal Employment Opportunity Commission.

may prevent fathers from assuming responsibilities in connection with the birth of children.

Short-Term Leaves of Absences for Child-bearing and Family Emergencies

Most colleges and universities provide for paid short-term leaves of absence, through formal or informal arrangements, for faculty members who are ill or temporarily disabled. The conditions and duration of compensation for short-term leaves for pregnancy, childbirth, or family emergencies involving spouse, parents, or children, should be analogous to those for leaves granted for temporary disability or personal emergencies. The timing and duration of absence in such cases should be determined by mutual agreement between the faculty member and the institution, and should be based on medical need, the requirements of the educational program, and individual circumstances. Compensation during short-term leaves of absence for child-bearing or the serious illness of a family member should be consistent with customary institutional practices in cases of illness or temporary disability.

Longer-Term Leaves of Absence for Child-rearing

The rearing of children should be considered appropriate grounds for a leave of absence of a semester or more, and such leaves should be available to both men and women faculty members. The timing and duration of such leaves should be determined by mutual agreement between the faculty member and the institution. Faculty members on child-rearing leaves should receive the same considerations with respect to salary increments, insurance coverage, retirement annuities, and the like, as are received by faculty members on leave for public or private service outside the institution.

The alternative of a temporarily reduced workload should be available to faculty members with child-rearing responsibilities (see Committee W's statement on *Senior Appointments with Reduced Loads*).

Individual and institutional obligations in connection with such leaves, including the timing of a tenure decision, should be those set forth in the applicable provisions of the *Statement of Principles on Leaves of Absence*.

Constitution of the Association

Article I—Purpose

The name of this Association shall be the American Association of University Professors. Its purpose shall be to facilitate a more effective cooperation among teachers and research scholars in universities and colleges, and in professional schools of similar grade, for the promotion of the interests of higher education and research, and in general to increase the usefulness and advance the standards, ideals, and welfare of the profession.

Article II—Membership

1. There shall be five classes of members:

a. *Active Members.* Any person who holds a position of teaching or research in a university or college in the United States or Canada, or in the discretion of the Council in an American-controlled institution situated abroad, or in a professional school of similar grade may be admitted to Active membership in the Association. Any professional appointee included in a collective representation unit with the faculty of an approved institution may also be admitted to Active membership in the Association.

b. *Graduate Student Members.* Any person who is, or within the past five years has been, a graduate student may be admitted to Graduate Student membership. Graduate Student members shall be transferred to Active membership as soon as they become eligible.

c. *Associate Members.* Any member who ceases to be eligible for Active or Graduate Student membership because his work has become primarily administrative shall be transferred to Associate membership.

d. *Emeritus Members.* Any Active or Associate member retiring for age may be transferred at his request to Emeritus membership.

e. *Public Members.* Any person not eligible for one of the other four classes of membership may be admitted as a Public member.

2. The admission of members shall require two steps:

a. *Application.* Application for Active, Graduate Student, and Public membership shall be made to the Secretary-Treasurer of the Association.

b. *Acceptance and Notification.* When an applicant's eligibility has been determined, it shall be the duty of the Secretary-Treasurer to inform him promptly that he has been accepted to membership, and to include his name in the list of new members sent to chapter officers. A person's membership may be protested, on grounds of eligibility, by an Active member of the Association. If a majority of the members of the committee on membership and dues votes to sustain the protest, the person in question will be informed that his membership has ceased to be effective.

3. A member may resign by notifying the Secretary-Treasurer, and may be expelled for cause by a two-thirds vote of the Council after opportunity for a hearing. Membership shall be forfeited by nonpayment of dues under conditions to be established by the Council.

Article III—Officers

1. The officers of the Association shall be a President, a First Vice-President, a Second Vice-President, and a Secretary-Treasurer.

2. The terms of office of the foregoing officers shall be two years, and shall expire at the close of the last session of the Annual Meeting following the election of their successors, or, if a meeting of the Council is held after and in connection with the Annual Meeting, at the close of the last session of the Council.

3. The foregoing officers shall have the duties usually associated with their respective offices. The President shall preside at meetings of the Association and the Council. He shall appoint all committees of the Association and shall be *ex officio* a member of all except the Nominating Committee. He shall also be a nonvoting *ex officio* member of the governing bodies of all conferences.

4. The Secretary-Treasurer shall be responsible for

[1] Last amended at the Sixty-second Annual Meeting of the Association in Santa Barbara, California, June 24-26, 1976.

maintaining the records of the Association. The Secretary-Treasurer shall also receive all moneys and deposit them in the name of the Association. With the authorization of the Council, he shall invest any funds not needed for current disbursements. He shall pay all bills approved in accordance with procedures determined by the Council. He shall make a report to the Association at the Annual Meeting and such other reports as the Council may direct. He may with the approval of the Council authorize one or more Assistant Secretary-Treasurers to act for him. The financial records of the Association shall be audited annually by an external agency, and the report of the audit shall be published.

Article IV—The Council

1. The President, the Vice-Presidents, the Secretary-Treasurer, the Chairman and immediate past-Chairman of the Assembly of State Conferences, and the Chairman of the Collective Bargaining Congress, together with the three latest living ex-Presidents, shall, with thirty elective members, constitute the Council of the Association. Ten members of the Council shall be elected each year in the manner provided in this Constitution, to serve for three-year terms, according to the provision governing the terms of the officers.

2. The Council shall carry out the purposes of the Association and, subject to the authority of a meeting as defined in this Constitution, act for the Association. The Council shall (a) determine, for each class of members, the annual dues and regulations governing their payment, subject to ratification at the Annual Meeting; (b) manage the property and financial affairs of the Association, with power to accept gifts to the Association; (c) construe the provisions of this Constitution; (d) provide for the publications of the Association; (e) appoint and determine the salaries of a general secretary, general counsel, and assistant treasurer, members of the professional staff, and such other employees as shall be necessary to administer the affairs of the Association in accordance with the general supervision of the Council; (f) determine the time, place, and program of the Annual Meeting and convene special meetings of the Association at its discretion; (g) publish a record of its meetings to the membership; (h) authorize the establishment of committees of the Association; (i) authorize the establishment of regional offices of the Association; and (j) authorize reapportionment and redistricting of the membership not less than once each decade.

3. As a representative of both the Association and his district, each member of the Council shall promote the exchange of ideas between the Council and the membership. He may receive and transmit to the Council the proposals of members, chapters, and state conferences within his district. He shall be a nonvoting *ex officio* member of the governing committees of those conferences.

4. Meetings of the Council shall be held in connection with the Annual Meeting of the Association and at least at one other time each year, upon not less than two weeks' notice to the Council. Ten members elected from districts shall constitute a quorum. The Council may also transact business by letter ballot. A special meeting of the Council shall be called by the President on the written request of at least eight members of the Council.

5. The President may, with the advice and consent of the Council, appoint an Executive Committee of not fewer than six Council members, including the President and First Vice-President and Chairman of the Assembly of State Conferences *ex officio*. Between meetings of the Council, the Executive Committee may exercise such powers as the Council has delegated to it and, under unforeseen exigencies, exercise other powers subject to the subsequent approval of the Council. Meetings of the Committee may be called by the President.

Article V—Election of Officers and Council

1. Only Active members are eligible for election as officers or members of the Council. Nominations for the elective offices to be filled and for membership on the Council shall be made by a Nominating Committee of five or more members, not officers or other members of the Council, appointed by the President with the advice and consent of the Council. Before submitting to the Council for approval his appointments to the Nominating Committee, the President shall invite suggestions in writing from the members of the Council as to the membership of the Committee. The Committee shall be chosen each year in time to seek and receive suggestions from the members, chapters, and conferences of the Association with regard to persons to be nominated, and to meet and submit its report to the Secretary-Treasurer, for publication to the members not later than a date to be determined by the Council and announced to the membership.

2. One member of the Council shall be elected each year from each of ten geographical districts formed with regard to the distribution of the Association's membership and to geographical contiguity. Council members shall be elected by vote of Active members resident in their respective districts. In preparation for an election, the Nominating Committee shall nominate two Active members of the Association from each district for the position on the Council to be filled from the district.

3. Nominations for members of the Council may also be made by petitions signed by at least fifty Active members of the Association resident within the district from which the Council member is to be chosen, provided that in determining the required number of signatures not more than ten shall be members at a single institution. Nominations for the Presidency, the Vice-Presidencies, and the Secretary-Treasurer may also be made by petition signed by at least 150 Active members of the Association, provided that in determining the required number of signatures not more than fifteen of those signing a petition shall be members at a single institution and not more than ninety shall be members in a single district. No member shall sign more than one petition for the same office. Petitions presenting nominations shall be filed with the Secretary-Treasurer not

later than a date to be determined by the Council and announced to the membership.

4. The Secretary-Treasurer shall prepare ballots containing the names of all nominees to office and to Council membership, with relevant biographical data and a statement of the method of nomination. Ballots shall be mailed to all Active members of the Association at a time to be determined by the Council and announced to the membership, and the polls shall be closed two months after the mailing. The nominee receiving a plurality of votes shall be declared elected. The President, the Vice-Presidents, and the retiring elective members of the Council who have served full terms shall not be eligible for immediate reelection to their respective offices.

5. A vacancy occurring on the Council, in the Second Vice-Presidency, or in the Secretary-Treasurership shall be filled by a majority vote of the Council for the unexpired term.

Article VI—Meetings of the Association

1. The Association shall meet annually except when prevented by war or other national emergency. The Secretary-Treasurer shall give notice to the membership of a meeting at least thirty days in advance. A quorum shall be a majority of the delegates registered for a meeting. A meeting of the Association shall have authority (a) to amend the Constitution in the manner herein provided; (b) to express its views on professional matters; (c) to act on recommendations presented to it by the Council; (d) to require the Council to report to the ensuing meeting on subjects within the province of the Association; (e) to propose action which, upon concurrence by the Council, shall become the action of the Association; and (f) in the event of disagreement between the Council and a meeting of the Association, to take final action as provided in the following section.

2. If the Council declines to concur in a proposal of a meeting of the Association, it shall report its reasons to the ensuing meeting. If that meeting concurs in the action of the previous meeting, the action shall become that of the Association. An action of the Association reached (a) by concurrence of the Council in an action of a meeting of the Association or (b) in two successive meetings shall not be changed except by the joint action of the Council and a meeting of the Association or by two successive meetings of the Association.

3. The Active members of the Association in each chapter may elect not more than one delegate from that chapter for each twenty-five Active members or fraction thereof at the institution, to each meeting of the Association. Each of the state conferences may elect two delegates to each meeting of the Association. All members of the Association shall be entitled to the privileges of the floor, but only Active members may vote. On request of one fifth of the delegates present, a proportional vote shall be taken. In a proportional vote, the accredited delegates from each chapter shall be entitled to a number of votes equal to the number of Active members at the institution, but any other Active member not at an institution thus represented shall be entitled to an individual vote. In case a chapter has more than one delegate, each delegate may cast an equal portion of the votes to which the chapter is entitled.

4. Except as provided in this Constitution or in rules adopted pursuant to it, the meetings of the Association shall be governed by *Robert's Rules of Order*.

Article VII—Chapters

1. Whenever the Active members in a given institution number seven or more, they may constitute a chapter of the Association and receive a charter from the Association. More than one chapter may be established in an institution when its parts are geographically separate. Each chapter shall elect, from its Active members, at least biennially, a President, a Secretary, and a Treasurer (or Secretary-Treasurer), and such other officers as the chapter may determine. It shall be the duty of the Secretary of the chapter to report to the Secretary-Treasurer of the Association the names of the officers of the chapter and to conduct the correspondence of the chapter with the Secretary-Treasurer.

2. The charter of a chapter may be revoked for financial malpractice, improper performance as a collective bargaining representative, disregard of democratic procedures, or disregard of other principles, policies, or procedures of the Association, in accordance with due process procedures established by the Council, when two thirds of the Council members present vote in support of the revocation.

3. All Active, Graduate Student, and Emeritus members in the institution, but not other members of the faculty, shall be eligible for membership in the chapter. Graduate Student and Emeritus members may vote in chapter meetings at the discretion of the chapter. Associate members may attend meetings by invitation of the chapter.

4. A chapter may establish local membership dues. It may meet with other chapters and with other local organizations. Its actions shall be in harmony with the principles and procedures of the Association.

Article VIII—State and Regional Conferences

Upon approval by the Council, several chapters may organize a conference of the American Association of University Professors which shall be open to all chapters and unaffiliated members within the area or group. A conference may consider and act upon professional matters which are of concern to the member chapters, but its action shall not bind the member chapters without their authorization and shall be in harmony with the principles and procedures of the Association. All conferences are entitled to participate in the activities of the Assembly of State Conferences. Formal recommendations on the purposes, structure, and work of the Association from conferences and the Assembly of State Conferences shall go to the Council for consideration and possible transmission to meetings of the Association.

Article IX—Collective Bargaining Congress

1. Several chapters which are collective bargaining representatives, or otherwise participate in collective bargaining, may form the Collective Bargaining Congress of the American Association of University Professors. Subject to approval by the Council, the Congress (i) shall adopt bylaws and (ii) may establish dues to be paid to the Association by chapters which are members of the Congress.

2. The Congress may consider and act upon professional matters which are of concern to the member chapters, but its action shall not bind the member chapters without their authorization and shall be in harmony with the principles and procedures of the Association. Recommendations adopted by the Congress concerning the purposes, structure, and work of the Association may be submitted by it to the appropriate body of the Association.

Article X—Amendments

This Constitution may be amended by a two-thirds vote of a meeting of the Association. An amendment may be initiated by the Council or proposed to it by not fewer than ten Active members. At its next meeting, the Council shall approve, amend, or disapprove a proposal submitted to it, and report its conclusions to the proponents. It shall report through the Secretary-Treasurer to the membership, at least one month before a meeting of the Association, a proposal which it initiates or approves. Upon failure of agreement between the Council and the proponents of an amendment, the proponent may, with the concurrence of at least five chapters, secure submission of their proposal to the next meeting of the Association by communicating it to the Secretary-Treasurer at least three months in advance. The Secretary-Treasurer shall transmit all amendments thus proposed to each member at least one month before the meeting.